

# Encyclopedia of Ethical Failure

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## Introduction

The Standards of Conduct Office of the Department of Defense General Counsel's Office has assembled the following selection of cases of ethical failure for use as a training tool. Our goal is to provide DoD personnel with real examples of Federal employees who have intentionally or unwittingly violated the standards of conduct. Some cases are humorous, some sad, and all are real. Some will anger you as a Federal employee and some will anger you as an American taxpayer.

Please pay particular attention to the multiple jail and probation sentences, fines, employment terminations and other sanctions that were taken as a result of these ethical failures. Violations of many ethical standards involve *criminal* statutes. Protect yourself and your employees by learning what you need to know and accessing your Agency ethics counselor if you become unsure of the proper course of conduct. Be sure to access them *before* you take action regarding the issue in question. Many of the cases displayed in this collection could have been avoided completely if the offender had taken this simple precaution.

The cases have been arranged according to offense for ease of access. Feel free to reproduce and use them as you like in your ethics training program. For example - you may be conducting a training session regarding political activities. Feel free to copy and paste a case or two into your slideshow or handout. Or use them as examples or discussion problems. If you have a case you would like to make available for inclusion in a future update of this collection please fax it to (703)697-1640 or email it to [soco@dodgc.osd.mil](mailto:soco@dodgc.osd.mil)

## Disclaimer

This *Encyclopedia of Ethical Failure* is intended to sensitize Federal employees to the reach and impact of Federal ethics statutes and regulations. It is best used to supplement personal verification of those statutes and regulations. It should not be interpreted as a binding or authoritative presentation of the law.

## **Abuse of Position**

### **DEA Agent- Misuse of Position**

A DEA agent whose responsibilities included fleet management and authorization of repairs of Government vehicles had attempted to obtain free repair services for his personal vehicles from two vendors. The agent also insinuated to the vendors that the cost of repairing his personal vehicles could be recouped as part of the charges for repairs to Government vehicles. After these allegations were substantiated, and the agent was dismissed from DEA.

### **Improper Use of Position**

The Department of Justice Office of Professional Responsibility (OPR) investigated allegations that a Department of Justice (DOJ) attorney prepared another person's application for a visa with a cover memorandum on DOJ stationery. The DOJ attorney also included one of his DOJ business cards in the submission. The foreign individual was seeking a visa in order to enter the country to perform certain functions for a non-profit organization. The DOJ attorney told OPR that he did not intend to gain preferential treatment for the visa applicant by identifying himself as a DOJ attorney, but believed his actions were consistent with what DOJ employees are permitted to do on behalf of non-profit organizations. OPR concluded that the actions of the DOJ attorney were improper, but not intentionally so. Section 2635.703 of the Standards of Ethical Conduct for Employees of the Executive Branch prohibits employees from using their position or title for purposes of endorsement.

### **"You obviously don't know who I am."**

The son of a bureau director was denied a rental car because he was too young. Outraged, his father wrote a scathing letter (on Agency letterhead) to the president of the rental car company, and sent it off in a U.S. postage-paid envelope. The president of the company was not amused and returned his scathing response to the head of the Agency.

As a result of his action, the Bureau Director was treated to a four-hour ethics session and a fine for personal use of official postage.

### **"But, Judge, I didn't get anything!"**

An offshore safety inspector found much of the Government's equipment to be in need of repairs to meet safety standards. He then referred the business to his brother-in-law's repair shop. The rig operators smelled a rat and called the FBI. They discovered that, in return for each referral, the brother-in-law was treating the inspector to an evening with a lady of dubious morals.

The case was brought to trial. In his defense, the inspector claimed that he had not received a "thing of value" in return for the referral. The judge didn't buy it - and neither did his wife.

**Use of Contractor Time**

Allegations were made against a Department of Defense (DoD) official regarding his use of contractor employees. The official directed two US Government contractors to entertain an acquaintance he met at a conference in Europe on his behalf. They were directed to take the person out to lunch as well as out on the town the following evening. The contractors rightly believed that the request was improper and as a result told the DoD official that they “had other plans.” The DoD official told them to “cancel them.” The contractors eventually took the acquaintance out that evening for several hours.

After an investigation, it was determined that the DoD official had acted in violation of 5 CFR 2635.704 by utilizing contractors’ time improperly. His supervisor counseled him and the proper reimbursements were made.

**Veteran’s Affairs Supervisors Push for Friends to be Hired**

A review found in two instances that Department of Veterans Affairs medical center supervisors recommended the hiring of close personal friends without divulging the relationship to human resources staff members. The review team recommended that disciplinary action be taken.

## Bribery (18 U.S.C. § 201-Type Violations)

### Exchanging Contract for Computer Earns Prison Time

**The Facts:** The director of Respiratory Care at a Veterans Affairs (VA) hospital in Shreveport, Louisiana, agreed to push through a VA contract for a vendor, if the vendor supplied her with a laptop computer. The VA police, as they are wont to do, investigated and discovered this *quid pro quo*. The director was caught and pleaded guilty to soliciting and receiving illegal gifts. She was sentenced to 5 months in prison, to be followed by 7 months of home confinement, and ordered to pay restitution of \$904. (Source: ***Federal Ethics Report***, Feb. 2001.)

**The Law:** 18 U.S.C. § 201(c)(1)(B) (2003) forbids any public official from accepting anything of value in exchange for an official act to be performed, or because of any official act already performed. Violations of this law can merit fines, imprisonment for up to 2 years, or both.

### Asking for a Bribe—Have You Lost Your Mind?

**The Facts:** An employee at the Defense Megacenters at Kelly Air Force Base, Texas, was working as a member of a source evaluation committee reviewing contract proposals for a \$5 million contract when he struck on this ingenious idea: Ask one of the potential contractors for a bribe in exchange for his approval of the contractor's proposal! The contractor apparently didn't think that this was such a good idea, however. It contacted the Defense Criminal Investigative Service, which investigated the case along with the Air Force Investigative Service. The investigation included using an undercover agent, parading as the contractor's representative, paying the employee the bribe. Having been caught with his hand in the cookie jar, the employee pleaded guilty to accepting a bribe and was sentenced to one year of probation and ordered to participate in a mental health program—perhaps an appropriate remedy for what proved to be a lame-brained scheme. (Source: ***Federal Ethics Report***, Feb. 2001.)

**The Law:** 18 U.S.C. § 201(b)(2)(A) (2003) bars public officials and any persons selected to be public officials from seeking anything of value in return for “being influenced . . . in the performance of any official act.” The penalty for violating this law can include fines, imprisonment for up to 15 years, or both, along with possible disqualification from holding “any office of honor, trust, or profit” with the United States Government.

### **Don't Be Too Gracious a Gift-Getter!**

**The Facts:** An employee of the Maritime Administration (MARAD), a division of the Department of Transportation, oversaw contracts for ship repairs. He also saw a contractor providing him with nice gifts to reward his work—including a large-screen TV and a VCR. What could be wrong with that? Plenty, according to the U.S. Attorney, who delivered to this gracious gift-getter a four-month prison sentence, to be followed by one year of probation, and an order for restitution in the amount of \$7,460. The other gifts the employee could have refused; these he was compelled to take. (Source: *Federal Ethics Report*, Feb. 2001.)

**The Law:** 18 U.S.C. § 201(c)(1)(B) (2003) forbids any public official from accepting anything of value in exchange for an official act, or given for an official act already taken. A violation of this law can result in fines, imprisonment for up to 2 years, or both.

### **Not So Much of a Bright Bulb!**

**The Facts:** A former supervisor in the Bureau of Indian Affairs used a Government-issue credit card to purchase excessive quantities of overpriced light bulbs from a North Dakota company. In exchange for his act as a poor shopper, he accepted \$21,000 in bribes. For his savvy purchasing, he was sentenced to one year and nine months in prison and ordered to pay \$72,000 in restitution.

**The Law:** 18 U.S.C. § 201(b) (2003) forbids Federal employees from (among other things) seeking or receiving anything of value in return for being influenced in the performance of an official act or to commit or to assist the commission of any fraud against the United States. It mandates fines, imprisonment for up to 15 years, or both, along with disqualification from holding “any office of honor, trust, or profit under the United States.”

### **FAA Employee Sentenced for Bribery**

A former employee of the Federal Aviation Administration (FAA) was convicted of bribery. In carrying out his primary responsibility was of reviewing and processing applications for FAA-issued pilot certificates, the employee accepted bribes of \$2,000 and an all-expense paid trip to Korea in exchange for preferential treatment of applications for Korean pilots from the flight school, Wings Over America. The employee was sentenced to pay a \$2,000 fine and serve four months in prison, followed by three years probation for violating 18 U.S.C. 201(b)(2). Bribery occurs when a public official seeks or accepts anything of value in return for being influenced in the performance of an official act.

### **Social Security Administration Employee's Bribery Conspiracy Ends in Prison**

A Social Security Administration employee and her husband were convicted for soliciting bribes from individuals seeking Social Security benefits for themselves or family members. The couple approached citizens who were having difficulty qualifying for Supplemental Social Security benefits. They would offer to arrange to have benefits reinstated or to complete paperwork for the individual. Afterwards, they demanded payment for their services. At their 1997 trial in Louisiana, a judge ordered the employee to 46 months imprisonment followed by three years probation. The employee's husband received 30 months imprisonment followed by three years probation. They each paid back \$23,809.33. The offense of bribery occurs when a public official seeks or accepts anything of value in return for being influenced in the performance of an official act.

### **Navy Employee Sentenced for Gratuity Offense**

A Navy electrical foreman was sentenced for accepting \$9,300 in illegal gratuities from a Government contractor. The foreman was convicted of violating 18 U.S.C. 201 and was sentenced to 36 months probation and a \$10,000 fine. The electrical foreman assisted a Government contractor in obtaining a contract with the Naval Air Warfare Center (NAWC). The foreman had authority over certain Navy contracts relating to NAWC base maintenance.

### **Congressional Aide Sentenced for Corrupt Activities**

A former staff assistant to a U.S. Congressman was convicted of two counts of accepting gratuities (18 U.S.C. 201) and one count of devising and carrying out a scheme to defraud the Government (18 U.S.C. 1341). The aide was sentenced to 18 months imprisonment on each count followed by two years probation. The staff assistant accepted \$3,700 for assisting individuals in obtaining permanent residency status by sending endorsements on the Congressman's letterhead to the Immigration and Naturalization Service (INS). The aide was also involved in a scheme to defraud aliens seeking permanent residency. The aide told the aliens that if they were members in the Seventh Day Adventist Church, they would be eligible for permanent resident status even though the INS Special Religious Immigrant Work Program covers only church workers and their immediate families who are employed by a religious organization. The aliens were informed that for a fee, she would assist them in applying with the INS. The aide received approximately \$400,000 from 1,000 aliens.



### **HUD Official and Realtor Imprisoned for Bribery Scheme**

A former official at the U.S. Department of Housing and Urban Development (HUD) was sentenced for his role in a bribery scheme involving HUD properties. The former official was paid bribes by a realtor who in exchange was sold HUD properties at lower than their appraised values. The bribes totaled over \$80,000, including a BMW automobile. In return the HUD official sold the realtor 20 HUD properties at one-third of their appraised value. The realtor then resold the properties at their full market value. In addition to other charges, both the HUD official and the realtor plead guilty to one count of 18 U.S.C. 201 each.

The HUD official was sentenced to a 24-month prison term followed by 3 years probation and was ordered to pay \$1.4 million in restitution. The realtor was sentenced to a 27-month prison term followed by 3 years probation and was also ordered to pay \$1.4 million in restitution.

### **United States Customs Service Special Agent Takes Informant Payoff Funds**

Beginning in June 1987, the agent worked with an informant who provided assistance to the Customs Service in criminal investigations. One of the agent's duties was to monitor and assess the work of the informant. During a period of several years, the informant received a number of payments from the Customs Service as compensation for his services as informant. On one or more occasions, the informant expressed gratitude for the agent's assistance by observing that both he and the agent had engaged in hard work for which the informant would receive substantial compensation, but for which the agent only would receive his salary. The informant offered to share with the agent a portion of his earnings from the Customs Service. In April 1992, the agent nominated the informant for a large payment, which represented a portion of the value of certain assets forfeited as a result of information provided by the informant. The agent then initiated a telephone conversation with the informant in which he asked the informant for money. During August 1992, the informant went to San Francisco to receive the payment. The agent personally gave the informant a United States Treasury check in the amount of \$110,875. While riding in a Government-owned vehicle, the informant attempted to hand the agent an envelope with \$4,000 in cash. The agent responded that the informant should drop the envelope in the car because he could not accept the cash directly. The informant left the money in the car and the agent recovered it.

The agent pled guilty pursuant to a plea agreement to a charge of a criminal violation of 18 U.S.C. 209, illegal supplementation of salary. Under the plea agreement, the agent agreed to the imposition of a fine of \$4,000 by the Court, to not seek employment with any Federal, state, or local law enforcement Agency, and to pay a special assessment of \$25. In exchange for these agreements, the United States agreed to move to dismiss the Indictment charging the agent with a violation of 18 U.S.C. 201(c)(1)(B) and not to prosecute him for any other criminal offense relating to his receipt of \$4,000 from the informant.

### **Gratuity Accepted In Exchange for Immigration Services**

A pastor submitted an application for permanent residence to the United States Department of Justice, Immigration and Naturalization Service (INS). The Southeastern Conference of Seventh-Day Adventists (Southeastern Conference) wanted the pastor to minister to two of its congregations in Miami. On August 17, 1990, a Congressman sent a letter to INS on behalf of the pastor. On May 31, 1991, a second letter from the Congressman, this time signed by the pastor as well, was sent to INS. Both letters were written on Congressional stationery. On August 21, 1991, the pastor's application for permanent residence was approved. On July 8, 1993, the Congressional staffer who organized the scheme received a \$500 gratuity from the Southeastern Conference for her efforts on behalf of the pastor. The staffer used the same scheme to assist another pastor in obtaining permanent residence so that he could serve as minister for two of the Southeastern Conference's congregations. The Congressman wrote to INS on July 26, 1993, on behalf of the second pastor and the Southeastern Conference. The staffer assisted the second pastor in his dealings with INS. On August 3, 1993, INS approved the pastor's petition for residence and, on February 3, 1994, the staffer received a \$500 gratuity from the Southeastern Conference for her efforts on behalf of the pastor. On April 26, 1994, another foreign national paid the staffer \$2,700 for assisting her in applying for permanent residence. The staffer submitted a petition to INS on the person's behalf and signed the application as the preparer. Although the application contained a signature, which purported to be that of the staffer, she claimed that it was not her signature and that she did not see the application prior to its submission. The staffer knew that the foreign national was not eligible to become a permanent resident of the U.S. but fraudulently misrepresented to her that she was eligible in order to induce her to utilize the staffer's services.

The staffer was charged with two counts of accepting gratuities for official acts performed, in violation of 18 U.S.C. 201(c)(1)(B) and knowingly making a material false writing and presenting it to INS, in violation of 18 U.S.C. 1001. She was also charged with accepting compensation for services provided in relation to matters in which the United States has a direct and substantial interest, in violation of 18 U.S.C. 203(a)(1) and mail fraud, in violation of 18 U.S.C. 1341. The staffer pled guilty to the five-count indictment on September 30, 1996, and was sentenced to 18 months of incarceration on April 18, 1997.

### **Multiple Charges Brought Against Air Force Officer and Accomplice for Software Scheme**

An Air Force officer was disgruntled after receiving notification that he would not be promoted and was soon to be discharged without a retirement annuity. He conspired with a base warehouse supervisor (while also seeking employment with him) to unlawfully transfer superseded software from the MacDill AFB warehouse he supervised to a private company for subsequent sale. He arranged with the supervisor to remove software called Oracle Tools and Database (Oracle). The Air Force officer obtained possession of over 96 boxes of Oracle software by making false statements in writing in an effort to gain authorization from his superiors to have the software destroyed in place. Destruction of superseded software was the responsibility of the Government according to its agreements with software contractors. The Air Force officer worked under the pretense that the Oracle software was being turned over to a company for destruction. Instead, the officer provided the Oracle software to a moving company that transported the boxes from MacDill to a commercial storage facility rented by the warehouse supervisor. Once in possession of the software, he searched for buyers of the software. Originally, the U.S. Central Command had paid the Government bulk rate of \$79,000 for the Oracle software in 1991. On the gray market, this software was valued between \$35,000 and \$100,000. The officer was convicted of a violation of 18 U.S.C. 208 (working on a project that affected a company in which he had a financial interest), while his co-defendant, the warehouse supervisor, was convicted of violations of 18 U.S.C. 201(b)(1), 18 U.S.C. 641 (theft of Government property) and 18 U.S.C. 371 (conspiracy). The officer was sentenced to 1 year probation and 150 hours community service. The warehouse supervisor was imprisoned for 27 months with supervised release for 3 years.

### **State Department Regional Security Officer (RSO) at the American Embassy in Santo Domingo, Dominican Republic Drives Automobile Scheme**

The RSO's primary duties included overseeing a small force of U.S. Marines and a larger force of security guards. While the RSO had no authority to enter into procurement transactions on the Government's behalf, he did, in two separate transactions, engineer the purchase of eight vehicles for the security company and some private citizens. The security company's contract with the Government required that it use three vehicles for patrols. These vehicles were purchased in the United States and were free from substantial import duties when delivered to the Dominican Republic by virtue of applications by the United States Embassy for "exonerations" from the duties. Exonerations are given for property to be used by foreign missions. With respect to the purchase of the first four vehicles, the RSO was given \$50,000 by the security company. The RSO carried at least \$39,000 in cash to Miami, which he illegally failed to disclose to customs officials, and purchased 4 vehicles for \$39,000. The RSO kept the remaining \$11,000. Later, when the RSO purchased four vehicles for individuals, he was given \$55,000 in cash. He returned to Miami with at least

\$35,000 in cash, which again he failed to report to Customs, and paid \$35,000 for four vehicles which were sent to Santo Domingo and "exonerated" from import duty after the RSO encouraged the exoneration process and initiated some of the paperwork through an embassy employee. The RSO retained the unspent \$20,000 difference between the purchase amount and the amount he had been given to purchase the cars. The security company also was required to provide weapons for its security force. The RSO arranged to purchase the weapons for the security company by first attempting to have certain firearm companies or retailers ship the weapons to the Dominican Republic, notwithstanding the fact that the RSO did not have a license to export the weapons. These companies refused to sell the weapons to the RSO. Subsequently, he purchased the weapons from a Baltimore gun shop after using Embassy letterhead and representing that he was authorized to purchase weapons for the State Department. The gun shop refused to ship the weapons to the RSO. The RSO then went to Baltimore and personally purchased the weapons and sent them in a lead-lined diplomatic box to the Dominican Republic. The RSO gave most of the weapons to the security company, but sold some extras that he purchased to citizens of the Dominican Republic at considerable profit. He also kept for himself the difference of \$2000 between the amount that the security company had given him to purchase the guns and the amount that the gun purchase had cost him.

The RSO was charged with making false statements to a firearms dealer, receiving something of value for performance of an official act in violation of 18 U.S.C. 201, participating as a Government employee in a transaction in which he had a financial interest in violation of 18 U.S.C. 208, stealing ammunition with a value in excess of \$100 from the United States, exporting firearms without a license, transporting monetary instruments into the United States for the purpose of carrying on a violation of the Arms Control Export Act and failing to make a true report to the Customs Service when carrying \$10,000 or more into the United States. The jury convicted the RSO on the 201 count and the count of the indictment pertaining to exporting firearms without a license.

### **Postal Employee Demanded Payoffs to Deliver Benefit Checks**

Having been tipped off that a letter carrier was demanding money from people on his route in exchange for delivery of general assistance checks, the Postal Service established surveillance and taped a conversation in which the letter carrier suggested that the customer make a "one-time" payment of \$15 to ensure delivery of her checks. The letter carrier accepted the payment, which had been marked in advance of its transfer. The letter carrier was indicted under 18 U.S.C. 201(c)(1)(B) for accepting money in exchange for performing an official duty. After plea negotiations, he pled guilty to a violation of 18 U.S.C. 209, for accepting compensation for official duties from a source other than the Government. He was sentenced to three years' probation, with 60 days at a community treatment center.

### **Employee Convicted for Steering Contracts to Supplier**

A Government technician and a co-worker went to a manufacturer and offered to ensure that the manufacturer received Agency contracts in return for a hefty "finders fee." The manufacturer, unfortunately for these enterprising employees, went to the FBI, which set up a sting operation and arrested the technician. At trial, the technician, ever so clever, argued that he could not be found guilty of bribery because he was not a contracting officer, and therefore did not have the authority to award contracts to the manufacturer. The court rejected this argument after listening to testimony on the role of technicians as far as providing expert information that contracting officers rely upon, and upheld the conviction of the technician. The offense of bribery occurs when a public official seeks or accepts anything of value in return for being influenced in the performance of an official act. Such acts include giving advice, making recommendations, and conducting investigations as well as making decisions.

### **Please Call Me "Doctor" Inmate**

One enterprising Federal employee cut a deal with a local university - they gave him an honorary Ph.D. in public administration in return for his signing a mega-buck grant for the university. (Obviously, he had great expertise in Public Administration.) The offense of bribery occurs when a public official seeks or accepts anything of value (such as an honorary degree) in return for being influenced in the performance of an official act.

### **Agriculture Employee Sought for Approving Fraudulent Loans**

A former employee of the Department of Agriculture is wanted for recruiting his friends to fraudulently apply for farm loans and then giving him money in exchange for approving the loans. The former employee helped his non-farmer co-conspirators to fill out the required forms with the information required for approval. Under this scheme the former employee approved loans totaling \$1.8 million. He collected \$340,000 for himself. The former employee has been charged with 98 counts including 56 for bribery.

### **Seven Agriculture Inspectors Sentenced for Bribery Scheme**

Seven U.S. Dept. of Agriculture fruit and vegetable inspectors were convicted of operating a scheme in which they received cash payments from fruit and vegetable wholesalers in return for the inspectors assigning lower grades to their produce. The lower grade meant that the wholesaler could pay the grower a lower price for the produce and then re-sell it at the higher grade. All plead guilty to one count of bribery each. Bribery occurs when a public official seeks or accepts anything of value (such as cash) in return for being influenced in the performance of an official act (such as assigning produce grades).

**INS Inspector Accepts Bribes**

A former Immigration and Naturalization Service inspector was sentenced for accepting bribes in return for allowing smugglers to import cocaine into the United States across the border with Mexico. He accepted \$75,000 in bribes in return for allowing over 1,000 pounds of cocaine to enter the country. The former INS inspector was convicted of bribery and was sentenced to 30 months imprisonment followed by three years probation.

**Former Federal Highway Administration Official and Wife Engage in Corrupt Scheme**

A former FHWA employee and his wife were sentenced for engaging in a bribery and kickback scheme involving traffic engineering contracts. The former employee improperly told a contractor that they would probably win a contract. In return the contractor granted a sub-contract to the FHWA employee's wife's "consulting firm." The employee's wife had no highway engineering education or experience. She received over \$100,000 in Government contracts. In addition to other charges, the former employee pled guilty to one count of bribery.

**VA Employee Convicted of Accepting Illegal Gratuities**

A former employee of the U.S. Department of Veteran's Affairs was sentenced for soliciting and accepting gratuities from a VA vendor. He received three computers, airline tickets, and hotel accommodations from several VA vendors. He was also charged with demanding a fourth computer and round trip tickets to Las Vegas from another vendor. The former employee pled guilty to one count of violation of 18 U.S.C. 201.

**IRS Official Convicted for Steering Contracts**

A former IRS official was sentenced in US District Court for accepting bribes in return for directing IRS computing contracts to certain companies and for failing to report the bribes on his income tax returns. He plead guilty to one count of bribery and to one count of filing a false tax return, and received a 37 month prison term and three years probation as a result. Bribery occurs when a public official seeks or accepts anything of value in return for being influenced in the performance of an official act.

## **Compensation for Representational Services from Non-Federal Sources**

### **(18 U.S.C. § 203-Type Violations)**

#### **Receipt of Income by Federal Employee Results in 18 U.S.C. 203 Violation**

A former employee of the Department of Transportation was sentenced in the U.S. District Court for the Eastern District of Texas for receiving unauthorized compensation from a Government contractor for performing Government duties. The employee, in his capacity as a Supervisory Marine Surveyor for the Maritime Administration, accepted compensation from BGI Enterprise, Inc. for providing representational services in preparing a bid package for a \$1 million U.S. Coast Guard contract to remove sunken barges from the Intracoastal Waterway in Texas. The employee pled guilty to one count of violating 18 U.S.C. 203, and the Government dropped its charge of making false statements to the Government and failure to report the receipt of the unauthorized compensation on his annual financial disclosure form. The employee was sentenced to a one-year probation and ordered to pay a \$2,500 fine. Under this criminal statute, in general, Federal employees may not accept compensation for representing someone else before a Federal agency on particular matters in which the United States is a party.

#### **INS Employee Accepts Illegal Payments**

A clerical employee of the Immigration and Naturalization Service (INS) took money in exchange for assisting in processing INS employment authorization documents. She pled guilty to a misdemeanor violation of 18 U.S.C. 203(a)(1), for receiving compensation for representational services rendered in a particular matter before a department or Agency of the United States. On December 12, 2000, she was sentenced to two-years probation and a \$1,000 fine.

#### **VA Employee Makes Improper Business Referrals**

A decedent affairs clerk at a Veterans Affairs (VA) hospital acted as an agent of another employee at the VA hospital, who moonlighted at a nearby funeral home. The clerk referred VA officials to the funeral home where his coworker moonlighted for the handling of bodies abandoned at the VA hospital. The moonlighting employee paid the clerk for referrals. Payments totaled approximately \$450. The clerk pled guilty on October 13, 1999, to a misdemeanor violation of 18 U.S.C. 203(a)(1), for receiving compensation for representational services rendered in a particular matter before a department or Agency of the United States. On March 10, 2000, the moonlighting employee was sentenced to pay \$25.

### **Congressional Staffer Accepts Cash In Return For Assistance with INS**

A Congressional staff assistant for a member of Congress was assisting a constituent with filing an application to normalize the immigration status of the constituent's daughter. While doing so, he solicited and received money from the constituent in exchange for the preparation and filing of the application with the Immigration and Naturalization Service. He was charged with violating 18 U.S.C. 203(a)(1)(B). On August 7, 1998, he pled guilty and on February 5, 1999, he was sentenced to three years' probation, 100 hours of community service, a \$2,340 fine and \$780 in restitution. Under this criminal statute, in general, Federal employees may not accept compensation for representing someone else before a Federal agency on particular matters in which the United States is a party.

### **IRS Employees Take Bribes To Ignore Tax Delinquency**

Two employees of the Internal Revenue Service (IRS) and the two owners of a car rental business engaged in a scheme in which they conspired to improperly handle the company's delinquent tax debt. The company was experiencing serious financial problems and had substantial Federal employment tax delinquencies. The co-owners of the company met with an IRS employee who introduced them to another IRS employee. IRS employee number 2 told the co-owners how they could get their tax case transferred from the IRS office where it was pending to the IRS office where he was employed. At that point, he would permit the company to remain in business and pay a minimal amount of its tax deficiency. The co-owners agreed to a payment of \$1,000 per month for this service. During this time period, the co-owners provided both IRS employees with free rental cars and paid vacations to Florida. IRS employee number 2 also invested money and acquired an interest in the company. In a separate scheme, IRS employee number 2 signed a one-year contract with a local levee board to perform an economic study. The contract called for the IRS employee to be paid \$85 per hour; he received approximately \$38,000 over the following year. At the same time, the levee board had tax disputes pending under the employee's supervision at the IRS. He did not disclose this fact to his supervisors at the IRS. The rental car company owners each pled guilty to violating 18 U.S.C. 203, offering compensation to a Government employee for representational services rendered in a particular matter before a department or Agency of the United States. Owner number 1 received one year probation and a \$250 fine. Owner number 2 was sentenced to five years probation and \$90,191 restitution. IRS employee number 1 pled guilty to violating 18 U.S.C. 201(b)(1)(A) (bribery) and was sentenced to five years probation and a \$3,000 fine. IRS employee number 2 pled guilty to violating 18 U.S.C. 208(a), taking official action in matters affecting a personal financial interest, as well as 18 U.S.C. 201(b)(2) (bribery); he was sentenced to twelve months in jail, three years supervised release, and a \$3,000 fine.



### **Congressional Staff Member Takes Payment to Help “Grease the Skids”**

A Congressional staff member solicited \$650 from a citizen who was seeking relief from the state's Office of Workman's Compensation. He told the citizen that the \$650 would help "grease the skids" in getting her claim approved. The staff member specifically requested that the money be provided in cash and arranged for it to be delivered outside of the Congresswoman's office where he worked. The citizen later reported the matter to the FBI who introduced an undercover FBI agent who purported to have a worker's compensation claim. In tape-recorded conversations with the under-cover agent, the staffer solicited \$650 from the agent. The pay-off was videotaped. When interviewed several days later, he initially stated he never accepted money from a constituent. When shown a photo of the FBI agent, he stated that he had been offered money by her but had turned her down. When told that the person in the photo was an FBI agent, the staffer stated: "I guess I'm in a lot of trouble, aren't I?" He was charged with violations of 18 U.S.C. 201 and 203 and pled guilty to one count of violating 18 U.S.C. 203. He received a sentence of probation, community service and was ordered to pay restitution.

### **DOT Employee Sentenced for 18 U.S.C. 203 Violation**

A former US Department of Transportation employee was sentenced in US District Court for receiving unauthorized compensation from a Government contractor for representing the contractor on a contract bid to the Government. The former official admitted that he assisted a DOT contractor in the preparation of a bid package for a \$1 million Government contract. The judge sentenced the former employee to a year of probation and to pay a \$2,500 fine.

### **Department of Labor Associate Deputy Under Secretary Violates 18 U.S.C. 203**

The Associate Deputy Under Secretary for International Labor Affairs at the Department of Labor was involved in an effort to promote low-income housing subsidized by the Mexican Government for low-paid Mexican workers living along certain sections of the United States-Mexican border. He was assigned the duty of pursuing arrangements for a low-cost housing project in 1991. The project was to be financed with private funds. He briefed the Deputy Under Secretary for International Labor Affairs on the progress of the project. During November 1991, he met with United States officials in Mexico City to discuss, among other things, private sector initiatives to construct low-cost housing along the United States-Mexican border. He met in Washington, D.C. and in Mexico City and other places with several real estate developers interested in low-cost housing along the border. He and the real estate developers met with Mexican banking and housing officials concerning the low-cost housing and the possibility that the project would be financed through a Mexican low-income financing authority. After several meetings, he told the real estate developers and the Mexican housing officials that he would not be able to participate in the joint venture that the real estate executives were forming due to his status as a Government employee.

On July 22, 1992, the Under Secretary accepted the offer to work for the joint venture in dealings with the United States. He was offered 10 percent of the net profits generated by the project. The project involved the building of 6,000 condominiums and would generate about \$10,000,000 in net profits. The anticipated total cost of the project was in excess of \$120,000,000. The Under Secretary had an intermediary act on his behalf in signing a memorandum of agreement with the real estate developers. The Under Secretary, throughout the period in question, requested travel authorizations and submitted travel vouchers to the Government for travel to Mexico to work on the Mexican worker housing project. The Government charged that he agreed to accept compensation for representational services before the United States in relation to a particular matter, the housing project, in which the United States Department of Labor had a direct and substantial interest in violation of 18 U.S.C. 203(a) and 216(a)(2). The Government also claimed that the Under Secretary was acting as part of a conspiracy against the United States in violation of 18 U.S.C. 371. The Under Secretary pled guilty to the charges and was sentenced to probation for 5 years.

### **Immigration Consultant Offered Payment to INS Employee**

An "immigration consultant" who assisted resident aliens with the process of obtaining INS travel papers offered compensation to an INS officer to speed-up the application process. He pled guilty to a misdemeanor violation of 18 U.S.C. 203(a)(2) on January 27, 1993, and was sentenced to one year probation, 6 months' home detention, and a \$25 special assessment. The defendant was also prohibited from working in the immigration consulting business.

### **Sergeant-at Arms of the United States Senate Takes Free Flight to Hawaii After Recommending Contractor**

The Sergeant-at Arms is the chief purchasing agent for the Senate and in that capacity he recommended that the Senate purchase and install a \$219,000 AT&T telephone system for the U.S. Capitol Police. Three weeks later, he accepted a round-trip Washington-Honolulu airline ticket, valued at \$2,700, from an AT&T employee. He pled guilty on November 18, 1992, to one misdemeanor count of violating 18 U.S.C. 203 and was sentenced to one year of supervised probation, to pay full restitution of \$2,700, and a \$5,000 civil fine.

### **Citizen Gives Illegal Payoffs to IRS Employee**

The defendant was audited by the Internal Revenue Service for excess deposits of income. He offered the IRS agent conducting the audit furniture, equipment, and cash if the agent would help him with his tax problems. The agent reported his offer to IRS internal security. Subsequent discussions between the citizen and the IRS agent, accompanied by payments of \$240 and \$200 in cash to the IRS agent, were monitored by IRS internal security. The citizen pled guilty to a violation of 18 U.S.C. 203, for compensating a Government employee for representational services with respect to a particular matter in which the United States had a substantial interest. The defendant was given a sentence of probation.

**Congressional Staff Member Pleads Guilty to 18 U.S.C. 203 Violation**

The defendant was a staff assistant to a U.S. Congressman in a district office in Georgia whose responsibilities included handling constituent requests. The staffer demanded and received a payment of \$300 from a businessman who was seeking a Federal grant to help him start up a business. The staffer also demanded a percentage of any grant money awarded to the businessman. He told the constituent that he would have to work nights and weekends on his own time to help the constituent and that the money was to compensate him for the work. The staffer was indicted for personally seeking payment for official acts in violation of 18 U.S.C. 201(c) and for demanding compensation for representational services before the United States in violation of 18 U.S.C. section 203. He pled guilty to the section 203 violation and received a sentence of probation.

## Conflicts of Interest (18 U.S.C. § 208-Type Violations)

### Watch Promoting Your Business on Government Time!

**The Facts:** A Senior Advisor to the State Department had an interest in a business that planned to develop a theme park in the Middle East. No problem there. But the Advisor, in his official position, recommended to other State Department officials that the State Department support the enterprise. That violated the law. After a guilty plea, he was sentenced to a year of probation and ordered to perform 25 hours community service and to pay a \$20,000 fine. (Source: *Federal Ethics Report*, Dec. 2000.)

**The Law:** 18 U.S.C. § 208 (2003) forbids any employee of the executive branch of the Federal Government from recommending in his or her official position any matter in which he or she has a financial interest. The penalty for violating this law could be a fine, a prison sentence for up to one year, or both—unless the violation is found to be “willful,” in which case the maximum prison sentence increases to 5 years (see 18 U.S.C. § 216 (2003)).

### Helping to Contract with a Potential Employer—A Bad Idea

**The Facts:** A U.S. State Department official was negotiating an employment contract with a private employer when he recommended in his official capacity that the Department of Defense (DoD) enter into a contract with the same company. The aim of the contract: to provide equipment and transportation to help recover the remains of U.S. servicemen who were missing in action during the Korean War. Relying upon the official's recommendation, DoD contracted with that company for \$717,000. Unfortunately, the official's recommendation to contract with a company with whom he was negotiating employment violated the law. On January 10, 2002, the State Department Official was sentenced to three years probation and ordered to pay a \$5,000 fine. (Source: *Federal Ethics Report*, Feb. 2002.)

**The Law:** With some exceptions, 18 U.S.C. § 208 (2003) forbids any officer or employee of the executive branch from participating “personally and substantially” in his or her official capacity in a contract, controversy, “or other particular matter” in which he or she, or any person or organization with whom he is she is negotiating employment, has a financial interest. Anyone violating this law “shall be imprisoned for not more than one year,” fined, or both (see 18 U.S.C. § 216). By making a recommendation on a contract involving a company with which he was negotiating employment, the official in this case violated the law.

### **Judge Imposes Steep Prison Sentence in Conflict of Interest Case**

A former employee of the District of Columbia Government was sentenced in the U.S. District Court for the District of Columbia for overseeing contracts involving an individual with whom he was financially involved. The former employee served as chief of the day programs branch of the D.C. Mental Retardation and Developmental Disabilities Administration. This Administration placed mentally retarded adults in non-residential day programs. The former employee supervised the assignment of mentally retarded adults to day programs and administered the rules governing these programs. During this time, the former employee assisted a woman in starting up a day treatment program for mentally retarded adults. The former employee made loans to the woman and referred clients to her. Thus, the former employee had a financial relationship with the woman. The former employee was no longer impartial since he had a financial interest in seeing her succeed so his loan could be paid back. In addition, as part of his D.C. Government duties, he oversaw the supervision of her company. When she would pay back a portion of the loan, she would also pay him additional monies. The jury found the former employee guilty of conspiracy and of violation of the conflict-of-interest law. Particularly because of the involvement of a vulnerable victim (the mentally retarded individuals in the day program), the judge sentenced the former employee to 46 months in prison, followed by 3 years of supervised release to include 100 hours of community service. The judge also ordered the former employee to pay a \$25,000 fine. Federal conflict of interest statutes prohibit employees from taking official action in particular matters in which they have a financial interest.

### **Federal Employee Convicted of Conflict of Interest Violation While Searching for New Job**

Job-hunting efforts by a former Commerce Department Inspector General (IG) turned up a Federal conviction for a conflict of interest instead of a job. As part of the former IG's official duties, he reviewed the performance of a certain company, which had contracted with the Commerce Department to update automated weather forecasting systems. At the same time that he was performing these oversight duties, the former official began negotiating employment with the same company. A Federal criminal statute, 18 U.S.C. 208, prohibits Federal employees from officially working on particular matters that have a direct and predictable effect on an organization with which they are negotiating prospective employment. The former IG's review of company's performance on the Commerce Department contract violated this statute. This is the same statute that bars Federal employees from taking official action on matters that affect their own financial interests or those of their spouses or children.

### **CIA Conflict of Interest**

A CIA employee paid \$48,000 to settle a complaint brought by the Department of Justice that the employee had engaged in official matters in which his spouse had a financial interest. The employee had served as the Contracting Officer Technical Representative (COTR) on certain contracts between his agency and a private corporation, where his wife worked. The employee's actions on the contracts involved millions of dollars awarded to the corporation. Although the employee's wife did not work on the same contracts as the employee, she received stock options for the purchase of the corporation's stock that were affected by the corporation's profits from the contracts involving her husband. A criminal statute, 18 U.S.C. 208, prohibits employees from participating personally and substantially in matters that have a direct and predictable effect on their own financial interests or those of their spouses, minor children, or organizations in which they are employed. In this case, the employee's actions on the corporation's contracts affected the profitability of the corporation, which was passed on to the employee's wife through the stock options.

### **Former Postmaster General Pays Settlement to End Conflict of Interest Investigation**

A former Postmaster General of the United States agreed to pay a \$27,550 settlement to end a complaint brought by the Department of Justice pertaining to a conflict of interest because of his holdings in a soft drink company. The complaint arose while the Postal Service was exploring a potential strategic alliance between the Postal Service and the soft drink company. The Postal Service Board of Governors had the authority to approve the strategic alliance, and the Postmaster General's role was to advise the Board of Governors with regard to their consideration of strategic alliances. The Postmaster General rendered advice to the Board even though he owned shares of stock in the soft drink company and therefore had a personal financial interest in the decision. The Postmaster General was charged specifically with violating 18 U.S.C. 208, a criminal statute that prohibits an employee from participating personally and substantially, as a Government official, in a particular matter in which he or she has a financial interest.

### **High-Ranking Government Official Agrees to Conflict of Interest Settlement**

A high-ranking Government official was charged with violating 18 U.S.C. 208, which governs official acts affecting a personal financial interest. The Federal employee, an Assistant to the President for National Security Affairs, was investigated for holding stock in certain petroleum companies while serving as the Deputy Assistant to the President for National Security Affairs. The employee was advised by the National Security Council Legal Adviser to divest his shares of his family's petroleum and other energy-producing stocks to avoid any conflict of interest. During the time the employee was told to divest his stocks, he was involved in his official capacity in matters that may have had a direct and predictable effect on a petroleum company in which he owned stock. The official agreed to pay the Department of the Treasury \$23,043, which represented the increased value of the stocks, to settle the matter.

### **D.C. Public Library Director Sentenced for Travel Reimbursement Scheme**

The former director of the District of Columbia Public Library was convicted for fraudulent activities involving Government cash advances and reimbursement payments. At the time, he was serving as both the head of the D.C. Public Library and the president of a trade organization, the American Library Association. The director took cash advances from the D.C. Public Library funds to pay for expenses incurred in his role as president of the American Library Association. He then asked the trade organization to reimburse him by sending checks directly to his home address. In this manner, the library director deposited over \$24,000 into his personal bank account. Subsequently, the director failed to reimburse the D.C. Public Library account for the cash advances. In September 1998, a judge ordered the former director to pay back the \$24,000 owed to the D.C. Library, plus an additional \$16,860 owed for back Federal income taxes. He was sentenced to five months of home detention, to be followed by two years probation for violation of 18 U.S.C. 208, a conflicts of interest criminal statute.

### **Former Federal Bureau of Investigation (FBI) Agent Violates Conflict of Interest Statute**

A former FBI agent pleaded guilty to violating 18 U.S.C. 208, which prohibits Federal employees from participating in official acts in which they have a personal financial interest. The FBI agent recommended the use of a pepper spray by the FBI and received \$57,500 in payments from the pepper spray producers through a company owned by his wife. The former FBI agent researched and tested the use of pepper spray for the FBI, which resulted in his initial contact with the product's manufacturer.

At the conclusion of the agent's research, the FBI approved the use of the pepper spray for its FBI agents, and the products were purchased from the company that he recommended. Additionally, as a result of the FBI agent's research, other law enforcement agencies nationwide began to use the pepper spray produced by the company. The former FBI Agent was sentenced to two months imprisonment followed by three years of supervised release for his violation of 18 U.S.C. 208. This statute bars Federal employees from officially participating (in this case, even making a recommendation) in particular matters (in this case, a contract to buy pepper spray) that have a direct and predictable effect on the employee's financial interests or those of the employee's spouse or minor children.

### **Army Employee Sentenced for Conflicts of Interest**

A civilian employee of the U.S. Army pleaded guilty to violation of the conflicts of interest statute (18 U.S.C. 208) in Federal Court and was sentenced to one year probation and a \$1,000 fine. The employee had been deciding upon contract awards and participating in the administration of contracts involving a company in which the employee owned stock, thereby participating personally and substantially as a Government employee in matters that affected his financial interests. The employee, who filed financial disclosure statements (OGE Form 450), had also failed to disclose his financial interest in the company.

**Chief Financial Officer and Chief Information Officer of the United States  
Department of Education Violates 18 U.S.C. 208**

While the official held the above titles at the Department of Education, his wife owned 600 shares of Compaq computer stock that she had inherited from her mother. During this period, the official was involved in his official capacity in issues concerning Compaq computers. The Government contended that the official violated 18 U.S.C. 208, for participating personally and substantially as a Government officer in a particular matter in which, to his knowledge, he and/or his spouse has a financial interest. Pursuant to a civil settlement, the official paid the Government \$20,000, and the Government released him from its claims.

**Chief of Staff at the Department of Veterans Affairs Medical Center in Kansas City,  
Engages in Conflict of Interest**

During the same time period he was employed in this capacity at the Department of Veterans Affairs Medical Center, the Chief of Staff was also employed as a physician by the University of Kansas Medical Center in Kansas City, Kansas. In his official Governmental capacity, he approved a contract dated May 5, 1995, for cardiocath services to the Department of Veterans Affairs Medical Center by the University of Kansas Medical Center.

On March 8, 2000, the Chief of Staff pled guilty to a misdemeanor violation of 18 U.S.C. 208, which bars employees from taking official action in matters affecting their personal financial interests. On August 7, 2000, he was sentenced to pay a \$250 fine and a special assessment of \$25.

**Internal Revenue Service (IRS) Revenue/Settlement Officer Prosecuted Under  
18 U.S.C. 208**

The IRS employee was assigned to an IRS collection matter, which gave him inside information concerning a proposed stock exchange. After his role in the case was substantially over, he purchased approximately \$2,000 in the stock subject to the proposed exchange based in part upon information he had learned during the course of his duties as a Revenue Officer. After his stock purchase, on several occasions the IRS employee had minor contact on the case with the parties before the IRS. He eventually went to his supervisor, disclosed his interest in the stock, and was removed from further participation in the case. The IRS employee lost money on the stock transaction.

The IRS employee was prosecuted pursuant to 18 U.S.C. 208, for participating personally and substantially as a Government officer or employee in a particular matter in which, to his knowledge, he has a financial interest, and 18 U.S.C. 216(a)(1). The employee was placed on pretrial diversion for six months on the condition that he resign from the IRS and perform 120 hours of community service.



### **District Conservationist at the U.S. Department of Agriculture's National Resources Conservation Service Sentenced For Conflict of Interest**

The NRCS employee was the Government's technical representative on a USDA soil and water conservation program that was implemented through a State of North Carolina program called NCACSP (North Carolina Agricultural Cost Share Program). Under the NCACSP program, local landowners can receive funding to reduce agricultural pollution. The NRCS employee, in his position as a district conservationist, approved a contract whereby a business venture owned by his spouse sold filter fabric to landowners through the NCACSP program. The NRCS employee was charged with a felony count of violating 18 U.S.C. 2, aiding and abetting, and 18 U.S.C. 208, for participating personally and substantially as a Government employee in a particular matter, in which, to his knowledge, his spouse has a financial interest. Further, in his position as a district conservationist, he approved a contract between the NCACSP and a cattle operation in which he and his spouse were partners. As a district conservationist, he approved a contract for fence construction between the NCACSP and a third party. This contract resulted in payments that were transferred to a partnership consisting of the NRCS employee, his spouse, and the third party.

The NRCS employee was charged with two additional felony counts of violating 18 U.S.C. 208, for participating personally and substantially as a Government employee in a particular matter, in which, to his knowledge, he, his spouse, and general partner have a financial interest. A jury convicted the NRCS employee on all counts. He was sentenced by the court to one year of probation.

### **A Contracting Officer for the Department of the Army at Fort Jackson, South Carolina Settles Conflict of Interest Allegation**

Sometime prior to November 1995, the contracting officer began a relationship with a foreman for a Government contractor. In 1995, the foreman started his own company and began bidding on Government contracts at Fort Jackson. In November 1995, the former Government contracting officer assumed the title of project manager at the new company and performed various duties for the former foreman. There is no proof that the company ever provided the former contracting officer with monetary compensation. On April 9, 1996, the former Government employee approved and certified for payment an invoice submitted by the company. She continued her employment relationship with the company until June 1996. However, she submitted a written statement to the Director of Contracting at Fort Jackson that her association with the company ended in March 1996.

The former contracting officer was indicted on December 3, 1997 for violating 18 U.S.C. 208, taking official action in matters affecting a personal financial interest. She signed a Pretrial Diversion Agreement, which requires that she complete 50 hours of community service.

### **Assistant United States Attorney (AUSA) for the Central District of California Convicted on Conflict of Interest and Fraud**

On numerous occasions the AUSA made favorable recommendations to the court, the probation office, and other prosecuting offices on behalf of cooperating witnesses and defendants in exchange for hundreds of thousands of dollars. For example, he accepted \$98,000 from a cooperator who had previously been convicted in the Northern District of Texas and on whose behalf the AUSA had argued for leniency at the sentencing hearing. In addition, he used his official position to secure entry into the United States of foreign nationals whom he believed would make substantial investments in a company in which he and his wife had a controlling financial interest. Once the foreign nationals entered the United States, two Iranian companies with which they were affiliated loaned a total of \$860,000 to the AUSA's company. The AUSA pled guilty to one felony conflict of interest count, 18 U.S.C. 208, and two counts of wire fraud, in violation of 18 U.S.C. 1343 and 1346. He was sentenced to two years in prison plus three years of supervised release and fined \$7,500.

### **An Engineer in the Contracts Department at Patrick Air Force Base Violates Conflict of Interest Statute**

Along with former military personnel and former Government employees, the engineer started a business, which submitted a bid to Patrick Air Force Base. The engineer, in his official capacity, provided the technical evaluations on the bid. Through the bidding process, the company was awarded the contract. The engineer was charged with participating personally and substantially in a particular matter in which he had a financial interest, in violation of 18 U.S.C. 208. Pursuant to 18 U.S.C. 216(a)(1), he pled guilty to a misdemeanor violation of section 208 and was sentenced to nine months probation and fined \$2,500.

### **Federal Aviation Administration (FAA) Employee Guilty of Violating 18 U.S.C. 208**

The FAA employee reviewed the applications of aircraft component manufacturers. He was the FAA representative on a flight test of a Ground Proximity Warning System (GPWS) manufactured by a certain corporation. In the course of his duties for the FAA, the employee obtained access to proprietary information submitted to the FAA by the GPWS manufacturer. At the same time, the FAA employee was developing and marketing his own GPWS for sale to the public. The FAA employee was charged with a violation of 18 U.S.C. 208, participating personally and substantially in the FAA's test flight of a GPWS while developing his own GPWS; he pled guilty and was sentenced to three years probation.

### **Central Intelligence Agency Contracting Officer's Technical Representative (COTR) Violates Conflict of Interest Statute**

The CIA employee's duties as a COTR included the technical supervision of two Government contracts with a particular company (the Company) through which the Government funded a classified program (the Program). The employee used his position as a COTR to cause the Company to hire a friend of his as a consultant to the Program. The friend owed a substantial sum of money to the employee and his wife and did not have the financial means to repay them. At no time did he disclose to the Government or the Company that the friend owed him or his wife money. The Government charged that, under these circumstances, the COTR had a financial interest in the Company's decision to enter into a consulting agreement with the friend and that he violated 18 U.S.C. 208 by participating in that decision. The COTR pled guilty to a felony violation of section 208. He also pled guilty to a charge of possession of child pornography obtained through his unauthorized personal use of a Government-furnished computer. He received three years supervised release and was ordered to pay a \$4,000 fine.

## **Credit Card Abuse**

### **Running Up the Government “IMPAC” Card**

**The Facts:** A (former) civilian director of the Pentagon’s Graphics and Presentation Division used her Government issued, Merchant Purchase Authorization Card (“IMPAC”) to make 522 fake purchases from a Seattle company created by a fellow schemer solely to carry out the fraud. Payments by the Government for the “purchases” were made to the Seattle firm, but the co-schemer would simply cash the checks and split the “take” with the director. The director was caught and sentenced to 3 years and one month in prison along with \$1.7 million in restitution.

**The Law:** Don’t steal. Theft violates various state and Federal laws.

### **Senior NCO Abuses Government Credit Card**

An investigation concluded that a senior U.S. Marine improperly used his Government credit card by purchasing gas for his personal vehicle, dinners, and concert tickets as well as obtaining cash advances- all unrelated to official travel. The Marine was counseled by his supervisor and required to reimburse the Government for all unauthorized purchases. He retired soon after the investigation.

### **DoD Employee Charges Caribbean Vacation to Government Credit Card**

A GS-13 Department of Defense employee used her Government credit card to pay for her personal vacation travel to the Caribbean. The case was referred to the US Attorney, who declined prosecution. The employee was counseled by her supervisor and warned that if any other inappropriate charges were made on her account she would be disciplined. (Yes, she reimbursed the Government.)

### **Department of Defense Employee Makes \$6,000 in Personal Charges**

An investigation revealed that a Department of Defense civilian employee had made inappropriate, personal charges in the amount of over \$6,000 using his government travel card. The employee was suspended without pay for failing to follow the terms of the credit card use policy.

### **Public Official Misuses Credit Card**

A Department of Energy employee recently pled guilty to a theft of Government property charge. The employee made over \$7,000 in personal charges on her Government credit card by hiding the charges among legitimate Government purchases. The employee also falsified invoices and credit card records to further conceal the purchases. The employee was sentenced to two years probation and ordered to pay restitution for the amount of the charges.

### **Department of Veterans Affairs Employee Misuses Credit Card**

A former Department of Veterans Affairs employee recently pled guilty to one count of theft of Government property. The former employee used her Government credit card to purchase expensive items (TVs were a favorite), which she then re-sold or kept for herself. The judge sentenced her to five years probation and ordered her to pay \$170,000 in restitution.

### **Department of Defense Civilian Employee Misuses Credit Card**

A Department of Defense civilian employee recently pled guilty to one count of theft of Government property. The employee entered into an arrangement with two vendors in that they would charge the Government credit card for non-existent goods and services. The vendors would then give cash to the DoD employee. The vendors charged over \$12,000 with over \$3,000 being kept by the employee. The employee was sentenced to two years probation with 4 months home confinement, and ordered to pay \$12,473 in restitution as well as a \$1,000 fine.

### **U.S. Government IMPAC Credit Card Abuse by Air Force Employees**

Three former civilian employees from Barksdale Air Force Base, Louisiana, were convicted of conspiracy to defraud the Government (18 U.S.C. 371) and conversion of U.S. property for personal use (18 U.S.C. 641). The employees used the U.S. Government IMPAC credit cards to purchase personal items, which included extensive home improvement products and car-related materials. One of the employees certified on official documents that purchases on the IMPAC credit card were properly used by members of the reserve unit. One of the employees was sentenced to a one year and one day prison term, and the other employees were sentenced to six months in a Federal halfway house and were required to make full restitution.

### **Department of Defense Employee Abuses Government Credit Card**

The supervisor of four credit cardholders of the Government International Merchant Purchase Authorization Card ("IMPAC") was convicted for misusing Government credit cards. The supervisor used the credit card numbers of those four subordinates, none of whom were suspected of any wrongdoing, to make multiple purchases from a local auto parts store and a military surplus store. The supervisor purchased goods with the IMPAC card and kept them for himself, re-selling most of them at his bar. Some of the items purchased include gas grills, truck parts, and automobile tires. The supervisor convinced the managers of the auto parts store and the military surplus store to alter the credit card invoices to list what would appear to be official military supplies, instead of listing the actual goods purchased. The purchase price on the invoice appears to have been the actual price of the goods received. The evidence indicates that the DoD supervisor defrauded the Government of an amount exceeding \$200,000.

The employee was charged with, and pled guilty to, violating 18 U.S.C. 287, for submitting false and fraudulent claims, and 18 U.S.C. 208, for approving the fraudulent purchases. He was sentenced to 10 months in prison.

## Financial Disclosure Violations

### **Don't Be Fined After You Leave: File the Financial Disclosure Report!**

**The Facts:** A senior Federal employee failed to file a financial disclosure report (SF 278) within 30 days of leaving Federal employment, as required by the Ethics in Government Act (EIGA), 5 U.S.C. app. § 101 et seq. (2003). The employee failed to respond to several certified letters, was sued by the Government, and assessed an \$11,000 fine. (Source: **United States v. Gant**, No. 02-2312, 2003 U.S. Dist. LEXIS 10620 (D.D.C. June 17, 2003).)

**The Law:** The law requires senior officials, who file SF 278s, to file a final financial disclosure report "on or before the thirtieth day" after termination of their senior positions. Anyone who knowingly and willfully fails to provide such a disclosure faces prosecution and fines of up to \$10,000 (see 5 U.S.C. app. § 101(e)-(f), app. § 104).

### **DC Mayor Financial Disclosure**

The failure to report \$40,000 he had earned in consulting contracts cost the Mayor of Washington, D.C., \$1000 several years ago. The Mayor violated the city's campaign finance code by neglecting to report these earnings on his financial disclosure report. Under 5 C.F.R. 2634.701, willful failure to file a public financial disclosure report (SF 278) or willful falsification of any information required to be reported may result in administrative actions or \$10,000 in civil penalties. In addition, criminal actions may be brought against Federal officials who provide false information on their financial disclosure reports.

### **Former Government Official Convicted for Filing False Financial Disclosure Report**

Under the Ethics in Government Act, a former Chief of Staff (CoS) for the Secretary of Agriculture was required to file the Public Financial Disclosure Report (SF 278). While in office, the CoS and his wife received payments totaling approximately \$22,025 from two businessmen who were longtime friends and business associates of the CoS, and who received subsidies from the Department of Agriculture (USDA) totaling \$63,000 and \$284,000, respectively. The CoS was required to, but did not, report these payments on his SF 278. While the USDA Inspector General was conducting an investigation of the CoS with respect to conflict of interest allegations the CoS made a sworn declaration that he had not receives such payments. He also stated that his only income from the time he became Chief of Staff, aside from the sale of a former residence, was his USDA salary.

The former CoS was convicted of violating 18 U.S.C. 1001, for failing to disclose the payments received from the two businessmen during on his SF 278 and for making a false sworn statement to the USDA Inspector General. He was sentenced to 27 months in jail.

### **Former EEOC Chairman Failed to File Financial Disclosure Report**

The former chairman of the Equal Employment Opportunity Commission settled a lawsuit brought by the Department of Justice for \$4,000. The lawsuit alleged that the chairman did not file a required financial disclosure report for two years that he was in Government service. In the previous year, the chairman filed the yearly financial disclosure report required of all senior executive branch employees (SF 278). For the subsequent two years, however, he submitted a photocopy of the first year's report. The Chairman acknowledged that the photocopied report did not reflect changes in his income. He further maintained that the inaccuracy was inadvertent and the result of a mistake made in good faith. The Director of the Office of Government Ethics noted that the chairman did not respond to four requests to file the required report over the course of two years.

## **Fraud (Violations Not Covered Elsewhere)**

### **To Defraud or Not To Defraud? That's an Easy Question!**

**The Facts:** An Internal Revenue Service (IRS) officer conspired with two private tax preparers to develop a scheme to defraud the United States Government. The tax preparers told persons owing money to the Government that they could negotiate a lesser debt if they would go ahead and pay off what was owed. The IRS officer would then enter false information into the relevant files showing that the individuals in question had insufficient assets to cover their debts. This convinced the IRS to halt collection efforts. Strangely (or not), the money paid to the tax preparers never made it to the IRS. The tax preparers were sentenced along with the IRS officer, who, for tinkering with the debts of others, ended up with quite a "debt" of her own: She was sentenced to 3 years and one month in prison, to be followed by 3 years of probation, and ordered to pay in restitution \$322,135.

**The Law:** 18 U.S.C. § 371 (2003) authorizes fines and imprisonment for up to 5 years for anyone conspiring with one or more other persons to defraud the United States, if any one of the conspirators takes any action to carry out the fraud. In this case, all three persons appear to have taken such an act. The IRS officer in this case was also charged under 26 U.S.C. § 7214 (2003) of the Internal Revenue Code, which requires that any IRS officer who conspires to defraud the Government be discharged from their office and, if convicted, pay up to \$10,000 in fines, serve up to 5 years in prison, or both.

## **Gambling and Other Contest-Violations**

### **Federal Employee Rides Into Trouble**

A local motorcycle dealer sponsored a "motorcycle poker" event across public lands. The off-road bikes followed a pre-set route, stopping along the way to pick up playing cards. The one with the best poker hand at the end won a new motorcycle. The winner? The on-duty Government employee who was to follow the contestants, making sure that nobody had fallen off his bike or gotten lost. He didn't get to keep the bike because he won the prize while carrying out his official duty. While section 2635.203(b)(5) of the Standards of Ethical Conduct for Executive Branch Employees allows Federal employees to keep prizes in contests that are open to the public and not related to the employee's official duties, in this case, the employee won while performing official duties.

### **Fantasy Football /S Gambling**

Gambling allegations were made against a Department of Defense employee who was operating a "fantasy football league" in his workplace. The participants each paid \$20 to participate. The funds were used for a luncheon at the end of the season and trophies were purchased for the winners. Although upon the surface the "fantasy football league" does not appear to be gambling per se, the General Counsel ruled that the activities constituted gambling in the workplace in violation of paragraph 2-302 of DoD 5500.7-R, Joint Ethics Regulation.

### **Fantasy Football /S Gambling II**

Allegations were made regarding Air National Guard members running a "fantasy football" league on Government computers. Each member of the league contributed \$10 to play, with the winner buying all of the other participants pizza at the end of the season. It was determined that the winner actually expended more on the pizza than the amount of the winnings. It was also determined that activities associated with the game were conducted on break and lunch times. Section 2-302 of DoD 5500.7-R, Joint Ethics Regulation, prohibits gambling by DoD personnel while on duty or while on Federal property. In addition, it was a misuse of Government resources to carry out such an activity on Government computers. The guardsmen involved were counseled by their commanding officer.



## Gift Violations

### Like a Private Helicopter Ride to Work? How About a Model Ship?

**The Facts:** According to sworn testimony and documentation acquired by the Office of the Naval Inspector General, a senior Naval officer accepted gifts from the owner of a corporation that serviced and provided landing facilities for military aircraft. The gifts to the officer included a helicopter ride to work, a shirt with the corporation's logo, a miniature model airplane, meals at a Christmas party, and a leather jacket. The officer allegedly returned the jacket but did nothing to compensate for receipt of the other gifts, the value of which exceeded (and probably well exceeded) \$100. This conduct occurred as one of a series of alleged offenses that resulted in the officer being relieved of command, issued a punitive letter of reprimand, and ordered to forfeit \$1000.

**The Law:** 5 C.F.R. § 2635.101(b)(14) (2003) requires all Federal employees to avoid any actions that a reasonable person, who knew the relevant facts, could take to be a violation of the law—including the prohibition on providing “preferential treatment to any private organization or individual,” mentioned at § 2635.101(b)(8). In this case, the value of the gifts the officer accepted could make it appear that he might influence Government contracting in favor of the corporation. To be sure, he enjoyed some neat gifts—for a time. However: “Public service is a public trust,” and it requires that Federal employees place loyalty to “the laws and ethical principles above private gain” (§ 2635.101(b)(1)). Even more directly on point, 5 C.F.R. §§ 2635.202(a) and 2635.203(d) apply the general principles mentioned above by prohibiting Federal employees from (among other things) soliciting gifts or accepting gifts—whether solicited or not—from any person who “[d]oes business or seeks to do business with the employee’s agency.” There are some exceptions to these rules. 5 C.F.R. § 2635.204, for example, allows the acceptance of “unsolicited gifts having an aggregate market value of \$20 or less per source per occasion,” provided that the value of gifts accepted under the “\$20 rule” from a single source do not amount to more than \$50 in a given **calendar year**. In the case above, the officer’s gifts exceeded (and probably well exceeded) this limit. If you have received a gift or gifts and anticipate that it has put you in jeopardy of violating these, or any other, regulations, 5 C.F.R. § 2635.205 tells you what you must do—and that does not include covering it over (which might make things worse). First, if the gift is an item and not an activity like a helicopter ride, you may return it to the giver or pay the giver the fair market value (see subsection (a)(1)). If that is not practical, you may—“at the discretion of the employee’s supervisor or an agency ethics official”—donate the item to an appropriate charity, share the item with your office, or destroy the item (see sub-section (a)(2)).

For an activity or event, you obviously can’t return the gift, but you can and must pay back the giver the market value of the gift; simply giving back something similar will *not* suffice (see sub-section (a)(3)). If an employee “on his own initiative, promptly complies with the requirements of this section” (that is, § 2635.205), and the gift was not solicited by the employee, then he or she will not be considered to have improperly received that gift.

### **"Great dinner, thanks for the tip"**

Just prior to a major contract award, a Bureau Director went out to dinner with one of the potential competitors at a swanky Washington restaurant. The wine alone cost over \$100 per bottle. Too bad the Director didn't realize that a **Washington Post** reporter was at the next table. The story received front-page coverage in the next day's **Post**. By that afternoon, the Director announced that he had accepted a job in private industry - a job he couldn't refuse (with his father-in-law). The Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635) generally prohibit Federal personnel from accepting gifts (including meals) from persons who do business or seek to do business with the employee's agency.

### **One Party Too Many**

The Big Boss was retiring and his second-in-command called the secretary to ask her to set up a retirement party. He directed her to send a memo to the staff advising them of what they were expected to contribute. She was assigned paper plates, napkins, plastic utensils, and a paper tablecloth. Everyone, including the secretary, was expected to contribute \$25 for food and gift. To the surprise of no one, the second-in-command was selected as the new Big Boss. *His* new branch chief called the secretary to have her set up a "promotion" party. The branch chief's memo to the staff advised them of what they were expected to contribute. For the secretary, it was once again paper plates, napkins, plastic utensils and paper tablecloth. Everyone, including the secretary, was again expected to contribute \$25 for food and gift. To no one's surprise, the branch chief was selected as the new second-in-command. *Her* senior analyst called the secretary and asked her to set up a "promotion" party. . . The secretary contacted the Ethics Office instead, where disciplinary action was initiated. Subpart C of the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. 2635) establishes the rules for gifts between employees. In general an employee may not give a gift or make a donation to a gift to a superior. Furthermore, employees may not generally accept gifts from other employees who receive less pay. There are certain exceptions, of course.

### **Gift From a Prohibited Source**

As a gesture of thanks, a retailer gave an Army soldier a brief case after the soldier, using his Government credit card, had purchased office supplies from the retailer. The soldier accepted the brief case in violation of the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. Part 2635), which generally bans acceptance of gifts by Federal personnel from persons who do business or seek to do business with the employee's agency. After an investigation, the soldier returned the brief case and was counseled.

## **Involvement in Claims Against the Government or in Matters Affecting the Government (18 U.S.C. § 205-Type Violations)**

### **Don't Play Attorney Against Your Federal Employer!**

**The Facts:** In the “off-time” from her work with the Social Security Administration, a senior attorney opened her own legal practice and represented clients with claims against that very same Administration. For her double-duty, she was sued by a U.S. Attorney and ended up agreeing to a settlement that required her to pay the United States \$113,000 for this and other violations—not a typical attorney’s fee! (Source: Office of Government Ethics memorandum, Oct. 2002.)

**The Law:** 18 U.S.C. § 205 (2003) forbids any current Federal employee from acting as an attorney in prosecuting a claim against the United States—where this is not performed as part of his or her official duties for the Federal Government. For any such violation, the law authorizes fines and possible imprisonment—of not more than one year, unless the conduct is “willful” in which case it can be for up to 5 years (see 18 U.S.C. § 216(a)).

### **Department of Justice Attorney Sentenced for Two Felony Counts**

A high-ranking attorney for the Department of Justice was convicted of representing a private party before a Federal Agency in which the U.S. was a party in interest, in violation of 18 USC 205. He was also convicted of theft of Government property, in violation of 18 USC 641. The attorney represented Native Americans before the Department of the Interior in private litigation, and submitted false travel vouchers for Government reimbursement while he served as an employee of the Department of Justice. The attorney pleaded guilty and was sentenced to four months of home detention and one year of probation. The plea agreement also stipulated that the attorney pay restitution to Department of Justice in the amount of \$5,000, a \$5,000 fine, and approximately \$2,500 in probation costs. Section 205 prohibits Federal personnel from representing anyone before a Federal Agency or court in connection with a particular matter in which the United States has a direct and substantial interest.

### **Air Force Civilian Employee Improperly Represents Fellow Employees Before U.S. Government**

A civilian employee of the Oklahoma City, Air Logistics Center (OC-ALC), who was also the former OC-ALC shop steward, was charged with violating 18 U.S.C. 205. The employee, who was not an attorney, as an owner of a private company called Associated Labor Consultants, provided legal services to other OC-ALC civilian employees by filing legal briefs on behalf of the civilian employees and by representing them before various board hearings against the United States. He collected approximately \$1,050 in fees from OC-ALC civilian employees for his services, and had billed out but had not collected an additional \$1,853.

The Air Force employee was charged with a civil violation of 18 U.S.C. 205. The case was dismissed without prejudice. On February 2, 1998, the parties entered into a stipulated agreement in which the accused agreed to pay the United States \$3,000 and to refrain from advising, counseling, or representing persons with claims against the United States.

#### **FAA Employee Improperly Represents Co-worker to Department of Justice**

An engineer employed by the Federal Aviation Administration (FAA) at the Mike Moroney Aeronautical Center in Oklahoma City, was charged with violating 18 U.S.C. 205 (among other charges). While employed by the FAA, the engineer attended and graduated from night law school. The new attorney continued his employment as an engineer but prepared wills, powers of attorney, and other legal documents on his own time. Without permission from the FAA, he agreed to represent a fellow FAA employee who was the target of a criminal investigation by the U.S. Attorney's Office, and subsequently contacted the U.S. Attorney's Office on behalf of his client. The United States brought a civil action against the FAA employee pursuant to 18 U.S.C. 205(a)(2) and 18 U.S.C. 216. The parties entered into a consent judgment in which the FAA employee agreed to pay a \$1,200 penalty

#### **Deputy Secretary of Commerce Improperly Contacts Official at Department of Veteran's Affairs**

The Deputy Secretary of Commerce received from his father-in-law, the owner of a company doing business with the Department of Veterans Affairs (VA), a letter complaining of delays experienced by the company in modifying its contract with the VA. The Deputy Secretary referred the letter to the Deputy Secretary of the VA on behalf of his father-in-law; and also contacted the Deputy Secretary of the VA by telephone. As a result of the intervention, the company received the modification it sought more quickly than it would have, absent the action by the Deputy Secretary. He agreed to a civil settlement, including a \$5,000 fine, which would have been the maximum fine available under the sentencing guidelines had the case been prosecuted criminally. A complaint for civil penalties was filed pursuant to 18 U.S.C. 216(b) for a violation of 18 U.S.C. 205 and dismissed in accordance with the settlement agreement. Section 205 prohibits Federal personnel, other than in the proper discharge of their official duties, from acting as an agent or attorney for another before any Federal agency or court, in connection with a particular matter in which the United States is a party or has a direct and substantial interest.

#### **VA Employee Represents Company Before U.S.A.I.D.**

An architect employed by the U.S. Veterans Administration (VA) was charged with violating 18 U.S.C. 205. While employed by VA, the architect represented a Beltsville, Maryland, company in connection with an application for a contract with the United States Agency for International Development in Dacca, Bangladesh. The architect made two trips to Bangladesh to represent the company while employed by the VA, including a trip for which he was paid \$2,090 by the company for expenses.

Prior to the effective date of his resignation from the VA, the architect was paid \$5,603 by the company. During this same period of dual employment, he earned \$5,540 from the VA. He was charged with violating 18 U.S.C. 205(a)(2). The architect was sentenced to two years probation with a fine of \$1,000 and to complete 100 hours of community service. Section 205 prohibits Federal personnel, other than in the proper discharge of their official duties, from acting as an agent or attorney for another before any Federal agency or court, in connection with a particular matter in which the United States is a party or has a direct and substantial interest.

## **Misuse of Government Resources**

### **Don't Let Internet Surfing Carry You Away!**

**The Facts:** The Internal Revenue Service (IRS) issued a policy that allowed the use of the Internet by employees for personal reasons so long as that use did not distract employees from their duties. It also provided a list of Internet sites that were off-limits. Six months later, the Treasury Inspector General (IG) for Tax Administration found abuse of Internet privileges. Abuses included viewing pornographic sites, downloading music and games, and “chatting” online with friends. The IG recommended that the IRS require employees to sign a document declaring that they understand IRS Internet policy and, as GovExec.com has put it, “humiliate Internet abusers by publishing their names.” The IRS has determined that it will take stronger measures. (Source: **GovExec.com**, June 23, 2003.)

**The Law:** Different agencies may have different policies as to what use employees can make of the Internet while at work. As an employee, you must follow the policies of your employer or face disciplinary action. Moral: Check the tide in your office before you surf.

### **Using Government Vehicle to “Chill” Earns Down Time By Suspension**

**The Facts:** A California citizen was puzzled to find a Dodge Ram truck owned by the Department of the Navy often turning up in the citizen’s residential neighborhood during business hours. Concerned at this use of a Government-owned vehicle (GOV), the citizen decided to give a Defense Department hotline a call. An investigation ensued, which involved surveillance of the neighborhood in question, review of timekeeping records, and interviews. Ultimately, the driver of the vehicle—a mechanic at a Naval Air Station—admitted to having problems with substance abuse and depression and to using the truck at times to return home allegedly to retrieve tools (which could have been obtained by other means) and to chill out, sometimes for two hours. He admitted that he knew that what he was doing with the GOV was wrong, but he asked for a second chance since he had never been in trouble before. The mechanic was given the mandatory minimum penalty: a 30-day suspension.

**The Law:** 31 U.S.C. § 1349(b) requires that an officer or employee who “willfully” uses a vehicle owned or leased by the United States Government for other than official purposes be suspended for at least one month or, “when circumstances warrant, for a longer period or summarily removed from office.” In this case, the misuse of the vehicle was deemed to be willful, since the Federal employee knew that his personal use of the GOV was wrong.

### **Holiday Greetings! Military Officer Sent Best Wishes on the Cheap—You Paid!**

**The Facts:** According to sworn testimony and documents uncovered by a Naval Inspector General inquiry, a senior Naval officer and his wife had a subordinate service member print out on a Government office computer official cards containing their holiday greetings, which they then signed, enclosed in official envelopes with printed labels, and sent to about 100 addresses. Some of their greetings were sent overseas to foreign officials using Government postage and marked “Official Business.” This conduct occurred as one of a series of alleged offenses that resulted in the officer being relieved of command, issued a punitive letter of reprimand, and ordered to forfeit \$1,000.

**The Law:** 5 C.F.R. § 2635.101 (2003), which lays out basic obligations for and restrictions upon public service, forbids the use of Federal property “for other than authorized activities” (§ 2635.101(b)(9)). It thus barred the use of all of the Federal property employed to produce and to send the greeting cards. Moreover, 18 U.S.C. § 1719 (2003) mandates fines for anyone using an official envelope or label to avoid having to pay their own postage for private mail. In this case, the official envelopes addressed to individuals overseas were improperly used to gain Government postage. Admittedly, section C1.4.9 of the Department of Defense (DoD) Official Mail Manual (DoD 4525.8-M, Dec. 26, 2001) authorizes the use of “appropriated fund postage” by DoD “activities . . . when international diplomacy dictates.” In this case, however, the officer’s greetings were not required for international diplomacy and were not sent on behalf of an “activity” but two individuals—the officer and his wife. They thus did not fall within the DoD exception.

### **"What do you mean, I can't sell real estate at work!"**

A Federal employee, who had a second career as a realtor, printed her Federal Agency phone number on her realtor business card. When she answered her phone at her Government workplace, she announced her office as "J&B Real Estate." When advised that she could not use her Government office for her commercial business, she left Federal service. The record is silent regarding how much of her duty day was actually spent on Government work. Sections 5 C.F.R. 2635.704 and 705 of the Standards of Ethical Conduct for Employees of the Executive Branch, bar the use of Government property and resources, as well as official time, for unauthorized activities (such as conducting a private business venture.)

### **"What do you mean, this isn't my property!"**

One entrepreneurial Federal employee backed his panel van up to the office door one night and stole all the computer equipment. He wasn't too hard to catch: he tried to sell everything at a yard sale the next day - with bar coding and "Property of US Gov't" stickers still prominently displayed.

### **Misuse of Government Resources**

Allegations were made that the principal of a Department of Defense school was using the school to hold personal, for-profit craft parties after hours. After an investigation it was determined that the principal did improperly use Government property. It was discovered that the original location on private property was no longer available, so the principal moved the parties to the school. Section 2635.704 of the Standards of Ethical Conduct for Employees of the Executive Branch restricts the use of Government property, including DoD school buildings, for authorized purposes only.

### **Improper Use of Government Resources**

Allegations were raised that a Navy civilian official was using his Navy office as a headquarters for his private company. It was alleged that he used and published his Navy office phone number as the business's number and used Navy employees to answer the phone and take messages regarding the business for him. It was also alleged that he used Government copiers, fax machines, and other equipment for the business. After an investigation all of the allegations were substantiated. The official was reduced in grade and removed from his supervisory post.

Section 2635.704 of the Standards of Ethical Conduct for Employees of the Executive Branch restricts the use of Government property, including office equipment and supplies, for authorized purposes only.

### **Misuse of Email**

A Department of Defense (DoD) employee inadvertently received an email message from another employee, whom she didn't know. The message went into great detail regarding a private business venture that the employee was conducting with a third employee. The recipient promptly forwarded the email to Inspector General, who investigated and determined that the writer of the message was using the Government email system for his own private business use. The employee was warned, but continued his activities even after counseling, and was subsequently removed from his position. Paragraph 2-301 of DoD 5500.7-R, Joint Ethics Regulation, restricts use of Department of Defense communications systems to official and authorized purposes only. Supervisors may allow limited personal use of DoD email systems under certain circumstances and when such use does not overburden the communications system, create significant additional costs, and is of reasonable duration and frequency.

### **Misuse of Government Telephone**

A Department of Defense civilian employee earned the ire of her co-workers by using her office telephone for personal calls. An investigation determined that the employee had indeed been abusing her telephone privileges - for nearly 90 hours in one calendar year alone. She was ordered to pay for the improper calls but was not prosecuted for the over two workweeks worth of time she spent on the phone during work hours. She was issued a letter of caution by her supervisor.

### **"And they even pay me for doing this."**

The Merit Systems Protection Board affirmed the decision by the Drug Enforcement Agency (DEA) to remove a criminal investigator for willful misuse of a Government vehicle. The former official was engaged in a social and sexual relationship with a confidential source of information, who was also the wife of a convicted drug trafficker. The former official received daily gifts from the confidential source. He used his official Government vehicle to travel to the residence of the confidential source, and to transport her from her residence to the Miami airport and to the Café Iguana for purely social reasons. He even gave her some DEA-owned ammunition for use in her own gun.

### **"Sorry, Skipper, but those really aren't perks."**

Immediately upon arriving at his new duty station in Italy, the new commanding officer of the Navy facility, in an effort to save money, used an official vehicle rather than obtaining a rental car, which he was authorized to do while awaiting delivery of his personal vehicle. His use of the official vehicle was discovered when the car was stolen when he was at a restaurant. The subsequent investigation also revealed that he had used an official boat (called a barge) to ferry himself and his social group to the island of Ischia for a social evening (a commercial ferry would have cost the total party less than \$20). The investigation also revealed that he had tried to persuade the commanding officer of a subordinate organization to create a GS-14 position for his spouse. The officer was relieved of his command and returned stateside.

### **Improper Phone Calls and Attempted Cover-up**

A General Services Administration (GSA) employee was removed from his position for making 153 non-business calls on a Government telephone to the Texas Lottery Commission. The calls cost the GSA \$800. The employee also asked the recipient of the calls to provide false information about the calls by stating that they concerned official Government business. The employee was removed from Federal Service.

### **Misuse of Government Vehicle**

A Department of Transportation canine enforcement team leader was removed from his position for misuse of a Government vehicle as well as for a serious lack of judgment regarding the safeguarding of over \$2 million worth of cocaine. The cocaine was used in training sessions for canine enforcement teams. The former employee improperly took his Government vehicle to lunch and left the cocaine unattended—all in a border town where narcotics trafficking was a problem. The charges and the removal decision were all appealed to the Merit Systems Protection Board. The removal was upheld.



### **How *NOT* to Get Rich Stealing Office Supplies**

A Department of Veteran's Affairs review found that a VA employee was unlawfully removing Government office supplies and equipment from the VA warehouse and providing them to his brother-in-law, who worked for a local retail establishment. Management took administrative action against the employee.

### **Misuse of Government Letterhead and Postage-paid Envelope**

A Department of Veteran's Affairs determined that a VA medical center employee used official VA letterhead as well as a postage-paid envelope to send personal correspondence to a county judge requesting issuance of a protective order against a then fellow VA employee. The employee was issued a written letter of counseling and advised that future incidents may result in disciplinary action.

### **Don't Misuse Government Vehicles—Even to Help Your Family!**

**The Facts:** The son and nephew of a high-level Federal employee were having car problems and needed lunch. With what may have been good intentions, this high-level employee decided to use a Government vehicle to help. He damaged the vehicle, and his act was discovered. His reward for helping his family with a Government vehicle: Suspension without pay for 45 days and reassignment to a new position. (Source: ***Donald Bucknor v. U.S. Postal Service***, NY-0752-01-0027-I-2, Jan. 24, 2003.)

**The Law:** 31 U.S.C. § 1349 (2003) requires that any Federal officer or employee who "willfully uses or authorizes the use of a passenger motor vehicle or aircraft owned or leased by the United States Government," except for official purposes, be suspended without pay for a *minimum* of one month and, "when circumstances warrant, for a longer period" or be "summarily removed from office." Moreover, in a recent case, *Brown v. United States Postal Service*, 64 M.S.P.R. 425, 433 (1994), the Merit Systems Protection Board affirmed that supervisors could be held to higher standards of conduct than non-supervisors, because supervisors occupy positions of greater trust and responsibility.

## **Morale, Welfare, and Recreation (MWR) Issues**

### **Re-sale of MWR Products**

Allegations were brought against a naval base's Morale, Welfare, and Recreation (MWR) Department regarding the printing and selling of T-shirts. The MWR printed T-shirts and then sold them to military members, who then resold them at public events off-base. A civilian businessman who owned a T-shirt business nearby complained that MWR should not be making and selling the T-shirts that were going to be re-sold off-base. After an investigation it was determined that MWR was not informing the military members about the prohibition regarding the re-sale of MWR goods and was also not informing the military members that they could not re-sell the T-shirts, both parts of MWR written policy. MWR began enforcing the policies and conducted training for all of their staff.

## **Political Activity Violations**

### **Agriculture Department Manager Suspended for Hatch Act Violation**

A Department of Agriculture manager received a four-month suspension after soliciting political contributions from subordinates. The Hatch Act prohibits Federal employees from certain activities in partisan political campaigns. The employee asked subordinates at work to contribute to the 1992 Democratic presidential campaign. Although the Hatch Act was amended in 1994 to allow Federal employees to participate more in partisan political activities, it still prohibits employees from engaging in political activities while on duty or in any Government office.

### **Government Employees Sentenced for Political Fundraising in a USDA Building**

Four employees of the Department of Agriculture (USDA) were convicted for political fundraising on Federal property. The USDA employees organized a Political Action Committee to raise money for the 1992 campaign. They collected a total of \$3,250 in checks from various individuals in a USDA building. To encourage donations, the four employees suggested that contributions to the fund might result in special consideration from the USDA officials affiliated with the Administration. Following the election, the four created a list of USDA employees who should not, in their opinion, receive special consideration from the Administration. The four defendants each received four years probation. Two of the defendants were fined \$1,000 and ordered to perform community service. The other two defendants were fined \$2,500 and ordered to serve 30 days detention in a halfway house.

### **Political Activities/Misuse of Government Email System**

Allegations were made against a Department of Defense civilian employee regarding the distribution of political material over the Government email system. The allegation was made after the employee sent a political attack message regarding a certain presidential candidate to everyone in the unit- including the commanding officer, who promptly notified the Inspector General. An investigation determined that the material was inappropriate for distribution through the Government email system. A written memo of counseling was placed in the employee's personnel file. Although the Hatch Act was amended in 1994 to allow Federal employees to participate more in partisan political activities, it still prohibits employees from engaging in political activities while on duty or in any Government office.

### **Political Activities: Two Humorous But True Stories**

An election was coming up and one enterprising young Federal employee called his ethics officer to inquire whether it was permitted, under the Hatch Act Amendments, to stuff ballot boxes! An employee who was told not to wear a Bush campaign buttons responded, "But I'm not. This is a button from his dad's campaign!"

### **Postal Employee Hatch Act Violation**

The U.S. Office of Special Counsel (OSC) announced that the Merit Systems Protection Board (MSPB) had concurred with OSC's petition that a mail processor for the U.S. Postal Service's (USPS) Mid-Missouri Processing and Distribution Facility, violated the Hatch Act's prohibition on being a candidate for elective office in a partisan election. OSC's petition charged the postal employee with willfully violating the Hatch Act. The employee did not respond to OSC's petition and resigned from the Postal Service on March 5, 2001. The MSPB decision written by an Administrative Law Judge issued on April 10, 2001, concludes, "(name withheld) violated the Hatch Act." It states "(name withheld) resignation does not moot the Special Counsel's complaint. Rather his total failure to answer the complaint warrants the [his] removal from USPS." In view of the postal employee's resignation, MSPB required the Postal Service to place a copy of its decision in the employee's official personnel file. When the postal employee began his job as a mail processor in Columbia, Missouri in 1997, he was given training material that explained that Postal Service employees were covered by the Hatch Act and could not be candidates in partisan elections. The Hatch Act prohibits most Federal and postal employees from running for partisan office. Hatch Act penalties for Federal and postal employees range from a minimum of a 30-day suspension without pay to removal.

### **Federal Employee Removed from Position for Hatch Act Violation**

The U.S. Office of Special Counsel (OSC) announced that the Merit Systems Protection Board (MSPB or Board) had granted its petitions to remove a postal employee from his position as a Letter Carrier for the U.S. Postal Service (USPS) in Jeff Davis County, Georgia, and a second postal employee from his position as a part-time Letter Carrier for USPS in Nevada County, Arkansas. OSC's petitions, filed with the MSPB in October 2000, charged both men with violating the Hatch Act's prohibition on being a candidate for elective office in a partisan election. Under the MSPB Administrative Law Judge (ALJ) orders, the Postal Service must remove them from Postal Service employment. As Postal Service employees, the Federal Hatch Act covers both men. Last year, both men filed papers to run as independent candidates in partisan local sheriff races. Both were warned by the OSC and by their Postal Service supervisors that their candidacy violated the Hatch Act. Nevertheless, when OSC filed its petitions in October, they remained active candidates and both continued their candidacies until the November 7th general election. Both were eventually removed from their positions in the Postal Service. The Hatch Act strictly prohibits most Federal and Postal Service employees from running for partisan elective office. It also strictly prohibits state and local employees, who have job duties in connection with Federally funded programs from running for partisan office.

### **EPA Official Disciplined for Hatch Act Violation**

The U.S. Office of Special Counsel (OSC) announced that (pursuant to a voluntary agreement) a Regional Administrator at the Environmental Protection Agency (EPA), Denver, Colorado, would be suspended from his position without pay for 100 days, in settlement of OSC's petition for disciplinary action, alleging a violation of the Hatch Act. OSC's petition for disciplinary action, filed with the Merit Systems Protection Board (MSPB), charged that the administrator violated the Act when he authorized his signature to be placed on a letter soliciting contributions to the campaign of a candidate for a Montana Congressional seat. The administrator resigned from EPA in order to run for Congress. He lost his bid for election. He was appointed back to his former position as Regional Administrator. OSC's petition for disciplinary action alleged that the administrator met with a candidate for the Montana Congressional seat, and several of the candidate's campaign officials. During that meeting, the participants discussed the administrator's endorsement of the candidate and the solicitation of campaign contributions. Shortly after the meeting, an endorsement/fundraising letter was drafted for the administrator's review and approval. Among other things, the letter stated: "Contributing now to (name withheld) campaign is absolutely critical." It urged recipients to "... make a contribution today." OSC's petition alleged that the administrator reviewed the draft letter and authorized the campaign staff to sign his name to it, in violation of the Hatch Act. That Act prohibits Federal employees from soliciting political contributions. Subsequently, the campaign distributed the letter to numerous potential supporters. The Special Counsel also emphasized that while OSC stands ready to prosecute violations of the Hatch Act, it prefers to help Federal employees avoid such violations. "When in doubt about what is permissible or impermissible under Hatch Act," the Special Counsel advised, "I would encourage employees to consult our office. There's a wealth of information at our website, [www.osc.gov](http://www.osc.gov), and employees can actually e-mail questions to us."

### **Five Hatch Act Violations Made by Agriculture Employee**

The U.S. Office of Special Counsel (OSC) announced a consent judgment had been entered in its Petition for Disciplinary Action filed against an attorney for the National Labor Relations Board (NLRB) in NLRB's Little Rock, Arkansas office. OSC's petition, filed with the Merit Systems Protection Board (MSPB), had charged the attorney with five Hatch Act violations: (1) participating in partisan political activity while on duty; (2) participating in political activity or in Federal office space; (3) using his official authority for the purpose of interfering with the result of an election; (4) knowingly soliciting the political participation of individuals with business interests pending before the NLRB; and (5) knowingly soliciting, accepting, or receiving political contributions. Pursuant to a stipulation, the attorney admitted that he had violated the Hatch Act and agreed to be removed from Federal employment.

The Hatch Act prohibits most Federal employees from engaging in partisan political activities in Federal office space or while on duty. The Hatch Act also prohibits Federal employees from using their official authority for the purpose of affecting the results of an election; this would include using an official Government title and soliciting "volunteer" services from a subordinate employee. The Hatch Act also prohibits knowingly soliciting the political participation of certain individuals, including those with business pending before an employee's Federal Agency.

## **Post-Employment Violations (18 U.S.C. § 207-Type Violations)**

### **Watch Representing a Business to the Agency Where Employed the Previous Year!**

**The Facts:** A Senior Executive Service (SES) employee of the State Department, who had been tasked with assisting the Bosnian Government in purchasing military equipment and training, retired and within several days took employment with a private contractor of military hardware. Six months later, he recommended to the United States embassy in Sarajevo that it support his bid for a contract between his new employer and the Bosnian Government. His bid for the contract was successful, but he also succeeded in securing legal action from the United States Government. The employee agreed to a \$10,000 settlement in exchange for being released from legal proceedings. (Source: Office of Government Ethics memorandum, Oct. 2002.)

**The Law:** 18 U.S.C. § 207(c) (2003) bars every SES employee for one year after ending employment with the United States from knowingly communicating with the Federal agency or office with which he or she has worked, with the intent of influencing that agency or office on behalf of anyone (other than the Government) who seeks an official action.

### **DoD Official Pays \$12,000 to Department of Justice to Settle Ethics Complaint**

A former DoD Deputy Inspector General (IG) paid \$12,000 to the Government to settle allegations that he violated 18 U.S.C. 207(a)(2), a criminal statute that prohibits former Government employees from representing others to the Government on matters that were under the former employee's official responsibility during his last year in office. The prohibition lasts for two years after the former employee leaves office. In this case, during the former Deputy IG's last year in office, his audit staff commenced an audit of a particular DoD program. The audit report, which was not released until after the Deputy IG had left the Government, recommended eliminating part of the program that was operated by a private contractor. The same contractor hired the former Deputy IG, who had by then been gone over one year, as an independent auditor to review the audit report. On several occasions, while acting on behalf of the contractor, and within two years after leaving DoD, the former Deputy IG contacted DoD employees and criticized the report with the intent to influence the judgment of the DoD employees. The statute prohibits such representations. This statute, 18 U.S.C. 207(a)(2), is often overlooked by Government employees. It includes all particular matters involving specific parties in which the United States is a party or has a direct and substantial interest, that were actually pending under the former employee's official responsibility during his or her last year of employment. This includes matters that the former employee may not have known about, or played in role in their determination, but, because of the employee's position, were pending under his or her official responsibility. As noted above, the statute prohibits the former employee from representing anyone to the Government regarding such matters for a period of two years after the employee leaves Government service.

### **SEC Attorney Sentenced for Switching Sides after Leaving Government**

A former attorney with the Denver regional office of the Securities and Exchange Commission (SEC) was convicted for violating 18 U.S.C. 207(a), which prohibits former Government employees from communicating with the Government with regard to matters they worked on as a Government employee. The SEC attorney was responsible for investigating stock promoters regarding their promotion of stock in a certain company. Upon departure from the SEC, the attorney was hired by the stock promoters to perform legal work for companies owned by them, including the company he had been investigating while at SEC. The attorney, in his capacity as counsel for, and director of the company, responded to a subpoena and communicated with SEC officials on behalf of the company in question. The attorney was sentenced to one year of imprisonment for this post-employment violation of a criminal statute.

### **Deputy Assistant Attorney General Settles Post-Government Employment Violation**

The former Deputy Assistant Attorney General of the Information Resources Management office within the Department of Justice left Government service in 1999. In his position, he managed the various functions of the Information Resources Management office, including computer systems. The Information Resources Management office is responsible for maintaining, assessing, designing, and procuring the information systems and telecommunications for the Department of Justice. At all pertinent times, the employee was paid at the rate of level 5 of the Executive Service pay scale while employed by the Government. In January 1999, the employee left and joined Science Applications International Corporation (SAIC). On April 7, 1999, after he had left Government service and was working for SAIC, he telephoned the Acting Deputy Assistant Attorney General of Information Resources Management. He told the official that he knew that the Department of Justice was considering not using SAIC on a new contract and stated that such action might require a payment to SAIC, which could, in turn, trigger the Anti-Deficiency Act because budgeted funds would have been exceeded. The Government maintained that the former employee's conduct violated 18 U.S.C. 207(c), a criminal statute that prohibits a former "senior employee" from communicating to or appearing before employees of his former department or Agency for one year after leaving the Government, on behalf of another, with the intent to influence official action. Pursuant to a civil settlement agreement signed by the parties in August 2000, the former Justice employee paid the Government \$30,000, and the Government released him from its claims.

### **Civil Complaint Filed Against FDA Chemist For Post-Employment Activities**

According to the Government's civil complaint, the accused chemist was employed by the United States Food and Drug Administration (FDA) in the Office of Generic Drugs (OGD) from February 9, 1992, through March 25, 1994. In that capacity, he performed reviews of Abbreviated New Drug Applications (ANDAs) submitted by pharmaceutical companies seeking to gain approval to manufacture and market generic versions of innovator drugs. Shortly before leaving employment with the FDA, in March 1994, he completed the first-level chemistry review of a pharmaceutical company's ANDA for Miconazole Nitrate Vaginal Creme 2%, an alleged generic equivalent to the prescription innovator drug Monistat-7.

His review consisted of an extensive analysis of the chemical components, manufacturing process, testing methods, and labeling requirements of the product. On or about July 1996, the chemist commenced employment as Vice President of Regulatory Affairs and United States Agent for the pharmaceutical company. In 1996 and early 1997, he contacted OGD officials on numerous occasions in an effort to obtain approval of the company's ANDA for Miconazole Nitrate Vaginal Creme 2%, which was still pending before OGD. His contacts consisted of status calls in which he urged OGD representatives to speed up the process of approval of the application and substantive discussions concerning problems with the application. Throughout his contacts with OGD officials, he was aggressive in seeking the approval of the ANDA. Further, the former FDA chemist used his acquaintance with supervisory-level OGD officials from his tenure as an OGD employee in an attempt to get special treatment for the ANDA based on his relationships with these officials. He made a number of calls to these supervisory-level officials regarding the ANDA urging them to speed up the process of its approval. The ANDA was approved in January 1997. In the complaint, the Government alleged that the former employee's actions violated 18 U.S.C. 207(a)(1), which prohibits a former Government employee from communicating to or appearing before the Government, on behalf of another, in connection with a particular matter, involving specific parties, in which he participated personally and substantially as a Government employee. Pursuant to a settlement agreement signed by the parties in June 2000, the former employee agreed to pay the Government \$15,000, and the Government released him from its claims.

### **Improper Post-Employment Activities by Former Contract Administrator**

As contract administrator for the United States Air Force, the employee was responsible for assuring compliance with the terms of two separate construction contracts between the Government and a private contractor. After leaving the Government, the contract administrator was hired by the same contractor, and he became the company's contract administrator on the same two contracts in question. While representing the contractor, he submitted contract progress reports to the Government in order to insure that the Government would compensate the company. Eventually, the former Federal employee submitted to the Government an equitable adjustment claim for approximately \$574,613 on one of the contracts. The contract had a basic value of \$1.3 million. The former Federal employee was convicted on two counts of violating 18 U.S.C. 207(a)(1), a post-employment restriction that prohibits former Government employees intending to influence official action from communicating to or appearing before the Government, on behalf of another, in connection with particular matters involving specific parties in which they participated personally and substantially as Government employees. Pursuant to 18 U.S.C. 216(a)(2), he was sentenced to six months of imprisonment, six months of home confinement, a fine of \$2000, and an assessment of \$200.



### **Air Force Officer Pleads Guilty to 18 U.S.C. 207 Violation**

An Air Force Colonel at Eielson Air Force Base worked on the 801 Housing Project, an approximately seventy million dollar contract to build military family housing at the base. The housing would be owned by a civilian developer and leased to the United States. The Colonel was assigned to oversee the project and was the Wing Commander's direct representative. He was the chairman of the "801 Housing Working Group," which met weekly to discuss any problems arising from the 801 Housing Project. Through his position as chairman of the 801 Housing Working Group, the Colonel worked with representatives of a corporation, which took over as construction contractor for the project in May 1994. In October of 1995, the corporation acquired ownership of a second corporation. In January 1996, the Colonel began to express an interest in becoming an employee of the first corporation. He retired from active duty with the United States Air Force during July 1996 and began to work for them as General Manager, Government Services Division, in August 1996. The United States continued to engage in contractual matters with the corporation with respect to the 801 Housing Project. In September 1996, the United States and the second, acquired corporation entered into a lease wherein the United States leased from them the military housing units of the 801 Housing Project. Under the lease agreement, the United States was to pay the second corporation \$8,688,150.00 on or about October 15, 1996, but did not make the payment until October 21, 1996. On or about the 17th and 18th of October 1996, the now retired Colonel, as a representative of both corporations, contacted an employee of the Air Force to attempt to expedite the late payment on the 801 Housing Project. In addition, on or about the 19th or 20th of May 1997, the retired Colonel, again on behalf of the corporations, contacted an employee of the Air Force to express displeasure regarding the Air Force's warranty claims on the 801 Housing Project. The United States charged the retired Colonel with a violation of 18 U.S.C. 207(a)(1) with respect to his contacting an Air Force employee about the late lease payment for the 801 Housing Project, and with a violation of 18 U.S.C. 207(a)(1) for contacting an Air Force employee about the Air Force's warranty claims on the 801 Housing Project. This criminal statute bars former Federal personnel (civilians and military) from representing another to Federal agencies with the intent to influence them regarding particular matters that involve specific parties in which the former employee participated personally and substantially while in Federal employment. The accused pleaded guilty to a misdemeanor violation of 18 U.S.C. 207(a)(1) for contacting an Air Force employee about the late lease payment for the 801 Housing Project and agreed to pay a fine of \$5,000. Pursuant to the plea agreement, the United States dismissed the charge for violating 18 U.S.C. 207(a)(1) for contacting an Air Force employee about the Air Force's warranty claims on the 801 Housing Project.

### **Bureau of Indian Affairs (BIA) Superintendent Commits 18 U.S.C. 207 Violation**

The Indian Business Development Grant (IBDG) program was created to provide Federal grant funds to eligible Indian persons, and Indian tribal organizations. Funds to be released through the IBDG program must be approved by the BIA. The BIA Agency Superintendent for the Crow Reservation misapplied \$103,750 of IBDG funds and \$311,275 of Crow Tribe land purchase funds for the purchase of land by the Crow Tribe from a private party. The land purchase was never completed.

The superintendent retired from the BIA in 1994 and became employed by the Crow Tribe as manager of the tribal casino. Beginning in 1996, the former superintendent represented the Crow Tribe in appearances before the BIA in connection with the reconciliation and justification for the release of the \$103,750 of IBDG funds that he had approved for the failed land purchase in 1992. The former BIA Superintendent was charged with violating 18 U.S.C. 207, representing the Crow Tribe before the United States in connection with the reconciliation and justification for the release of IBDG funds, in which he participated personally and substantially as a superintendent of the BIA through the deposit and release of such grant funds. He was also charged with violating 18 U.S.C. 371 (conspiracy to convert Federal funds), 18 U.S.C. 641 (willfully converting Federal funds), and 18 U.S.C. 1163 (misapplication of tribal monies) and found guilty of violating 18 U.S.C. 207, 18 U.S.C. 371, and 18 U.S.C. 641. He was sentenced to five years' probation, six months' detention, a \$150 Special Assessment to the Crime Victims Fund, and a \$6,000 fine.

### **Internal Revenue Service (IRS) Officer Pleads Guilty to 18 U.S.C. 207 Violation**

While a collection officer for the IRS, the accused was assigned to the collection cases of two IRS taxpayers. After the accused left the IRS, he represented both taxpayers before the IRS in connection with the collection cases to which he had been assigned as an IRS employee. He was charged with two violations of 18 U.S.C. 207(a)(1), making a communication to and an appearance before an officer and employee of the IRS, on behalf of the two taxpayers in connection with a matter, in which the United States was a party or had an interest, in which he had participated while an IRS employee. The accused pled guilty to the charges and was sentenced to one year of probation and 100 hours of community service.

### **United States Army Officer and Procurement Official Fined \$50,000 for 18 U.S.C. 207 and Procurement Integrity Act Violations**

The Army Officer coordinated activities for all medical facilities within the military services, including Army, Navy, and Air Force facilities in his region. In 1994 he retired from the Army and began employment with a defense contractor, who had been awarded a contract to provide inpatient and outpatient psychiatric services in support of William Beaumont Army Medical Center in 1991. In September 1993, based on a request by the retired officer, the Army Audit Agency began an audit of the contract to review the award process and to examine whether an option to renew the contract should be exercised. The audit was completed on January 10, 1994 and forwarded to the retired officer. On July 12, 1995, a request for proposals was issued by the Agency for a follow-on contract to provide essentially the same services that were being provided by the contracted corporation that the retired officer worked for.

On October 13, 1995, the contractor submitted a proposal, which was signed by the retired officer as the company's Senior Vice President. The contract for psychiatric services that was in existence from 1991 through 1996 was a matter under the retired officers' official responsibility. While he was in command of the facility, he made the decisions to re-solicit for the follow-on contract and to fund the program for the follow-on contract.

The retired officer was charged with civil violations of the Procurement Integrity Act, 41 U.S.C. 423(f)(1), and of 18 U.S.C. 207(a)(2), and 207(c)(1). Pursuant to a settlement agreement dated July 23, 1998, the accused agreed to pay the United States \$50,000 in exchange for the United States' dismissal of the complaint.

### **Attorney for Securities and Exchange Commission (SEC), Division of Enforcement Violates 18 U.S.C. 207**

In 1993, the SEC attorney was assigned to investigate a group of persons for securities fraud involving the payment of bribes to manipulate the market for the shares of certain companies. Bribes in this context refer to the practice by which stock promoters pay brokers kickbacks to tout the stock of companies. As part of this investigation, the attorney investigated two stock promoters in connection with their work promoting the stock of a certain corporation. The two stock promoters cooperated in the attorney's investigation and gave him sworn testimony in February 1994. In their testimony, the two promoters admitted to engaging in the payment of bribes intended to manipulate the share price of the corporation's stock. The attorney left the SEC on February 20, 1995 under threat of suspension for unrelated misconduct. He was immediately hired by the stock promoters to serve as the corporation's legal counsel. In January 1996, the SEC's New York office, working in conjunction with the U.S. Attorney's office in the Eastern District of New York, began an investigation of the entire matter. In February 1996, the SEC issued a subpoena for documents from the corporation relating to the two promoters and other matters that the former SEC attorney had himself investigated while employed by the SEC. The attorney, who was then the corporation's counsel and also on the company's board of directors, participated in responding to that subpoena. His participation included communications with SEC officials in violation of 18 U.S.C. 207(a), which prohibits former Government employees from communicating with the Government in connection with particular matters involving specific parties in which they participated personally and substantially as Government employees. The attorney and five other defendants (including the two stock promoters) were indicted in October 1996 for securities fraud involving the corporation and two other publicly traded companies. After the five co-defendants pleaded guilty, the attorney was indicted on a host of new charges, including securities fraud, money laundering, and a violation of 18 U.S.C. 207(a). He pled guilty to three counts, including the 207(a) charge.

## **Federal Aviation Administration Manager Resigns and Then Has Improper Contact With the Agency**

While serving as the Manager of the Airway Facilities Branch, the manager had official involvement in the procurement of "airway facilities training services." This FAA contract was valued at \$43,607,755. On March 27, 1992, the manager accepted a position with a bidder for the above-described contract as "Manager, Training Services on the Federal Aviation Administration's Airway Facilities Contract." On August 10, 1992, the bidder included the former manager's resume as "Program Manager" in the bid proposal. Members of the Source Evaluation Board became concerned as to the possible violations of procurement integrity laws after recognizing his name, and sought advice from FAA legal counsel. FAA legal counsel requested an official investigation on June 8, 1993. Evidence produced during the investigation indicated that the former manager had personally reviewed, amended, and corrected the Statement of Work for the procurement. Additionally, the former manager, when serving as the Manager of the Airway Facilities Branch, was responsible for the nominations of two selection board members for the contract. The selection board consisted of a group of FAA employees who would ultimately award the contract. After resigning, the former manager appeared before the FAA on behalf of the bidder, his then employer, at meetings pertaining to the procurement. The former manager plead guilty to a single count information with violating 18 U.S.C. 207(a)(2), and was sentenced to one year of probation and was fined \$5000. This statute bars former Federal personnel from representing another to Federal agencies, for a period of two years after leaving Government, regarding particular matters involving specific parties which were pending under the employee's official responsibility during the employee's last year of Federal service.

## **Senior Member of the Board of Governors of the Federal Reserve System Violates 18 U.S.C. 207**

Following her resignation, the former Board of Governors member was elected to the boards of directors of a number of companies. One of these companies was affected by a guideline issued by the Fed called the highly leveraged transaction (HLT) guideline. The Fed requested public comment on the HLT guideline. The company in question submitted a written comment to the Fed, and company officials met with a member of the Fed's Board of Governors. The former Board of Governors member both arranged and attended the meeting. She introduced the company officials to the member of the Fed's Board of Governors, but said nothing during the substantive part of the meeting. The company paid the former employee \$1,500 for her participation in the meeting. The former employee agreed to pay a \$5,000 civil fine in connection with an agreement resolving a criminal investigation by the Public Integrity Section into whether she violated the one-year bar of 18 U.S.C. 207(c), the post-employment activities statute. This statute prohibits former senior Government officials for one year after leaving their senior positions from representing or appearing before employees of their former agencies on behalf of another with the intent to influence them regarding official action.

### **Former Official at the Department of Agriculture's Federal Crop Insurance Corporation (FCIC) Improperly Represents New Employer to U.S. Government**

A major crop insurance corporation began the FCIC appeal process with respect to adverse FCIC decisions on certain claims (including the case of a certain Maine potato farmer) by sending to the official in question a notice of intent to appeal. Later that year, the official left the FCIC and joined the crop insurance corporation as a consultant. After the FCIC rejected the appeals that the company had initiated while the official was employed by the FCIC, he repeatedly tried to persuade Agency officials to reconsider the denial of the appeal involving the Maine potato farmer. The former official pled guilty to two counts of violating the two-year restriction on post-employment contacts codified at 18 U.S.C. 207(a)(2) and was sentenced to probation.

This statute bars former employees for a period two years from representing others to Federal agencies regarding particular matters involving specific parties which were pending under the former employee's official responsibility during his or her last year of Federal service.

## **Salary for Government Work from Non-Government Source (18 U.S.C. § 209-Type Violations)**

### **Charging Customers for Federally Funded Work—Criminal!**

**The Facts:** An Acting Assistant Director for the San Francisco Immigration and Naturalization Service (INS) office charged one alien \$950 for a file review for which the INS does not charge, another \$300 for an unneeded INS pardon, and a third \$250 to get a citizen application waiver that had already been approved. The Director was sentenced to serve 6 months in a halfway house, to be followed by 6 months of home detention and four years of probation, during which time he would be prohibited from acting in any capacity on immigration matters without permission of the probation officer. (Source: *Federal Ethics Report*, Feb. 2003.)

**The Law:** 18 U.S.C. § 209 (2003) makes it criminal for an employee of the Federal executive branch or of an independent agency of the United States from receiving any compensation for official services. For violations of this law, 18 U.S.C. § 216 (2003) authorizes fines and prison terms for up to one year—unless the conduct is willful, in which case imprisonment could be for as much as 5 years.

### **Navy Employee Commits Section 209 Violation**

A U.S. District Court recently sentenced a GS-14 Navy employee to one year of probation and to pay a \$5000 fine for receiving an illegal contribution to his salary in violation of 18 U.S.C. 209. In addition to criminal penalties, the employee was suspended without pay for 20 days. The employee was the Director of a unit that marketed contracts to other activities and then issued delivery orders to the contractors. The illegal contribution was a Coach leather writing portfolio and briefcase, and a laptop computer, which the employee asked one of the contractors for, and received. The investigation started when a contractor employee, who saw the fax that the employee had sent to the contractor requesting the items, notified the Naval Criminal Investigative Service. Employees may not solicit or accept compensation, including goods or services, from any non-Government source for performing their Government duties. Even though the goods or services may not have affected how the employees perform their work or make decisions, such as whether to award a contract, it is a violation to solicit or accept such compensation.

### **Senior Official Pays \$24,900 Settlement to Department of Justice**

To settle charges that he violated 18 U.S.C. 209 by accepting fees for speeches made as part of his official duties, a senior official of the National Science Foundation agreed to pay a settlement of \$24,900 to the Department of Justice. As a result of the settlement, DOJ dropped criminal charges against the official. The senior official had delivered four speeches to universities as part of his official duties, yet accepted honoraria amounting to \$5,500 for those speeches. Since those speeches were part of his duties, acceptance of compensation constituted supplementation of his salary from non-Federal sources, which is prohibited by 18 U.S.C. 209. Federal employees may accept honoraria for activities conducted in their personal capacities, but not as part of their official duties. Furthermore, although honoraria is permitted when speaking in the employee's personal capacity, employees may not accept compensation for speaking, teaching, or writing on matters that are directly related to their official duties.

### **District of Columbia Employee Pleads Guilty to Section 209 Violation**

Several inspectors employed by the District of Columbia Department of Consumer and Regulatory Affairs were accepting bribes and gratuities in exchange for the issuance of construction, plumbing, and electrical permits. A private architect paid "tips" to one of these inspectors in exchange for speedy and favorable inspections on his renovation projects. The architect was allowed to plead guilty to a misdemeanor count of section 209, and was sentenced to one-year of probation and a \$1,000 fine. The inspectors were convicted on charges of violating 18 U.S.C. 201 (bribery). 18 U.S.C. 209 bars the unlawful supplementation of salary and applies to officers and employees of the District of Columbia and non-Government sources who compensate any such officers and employees for their Government services.

### **District of Columbia DMV Employee Pleads Guilty to Section 209 Charge**

An employee of the District of Columbia Department of Motor Vehicles (DMV) was accepting bribes in exchange for altering DMV computer records in order to "clean up" the driving records of individuals who had outstanding traffic tickets or past violations that might prevent them from obtaining a driver's license. These bribe transactions were arranged through a middleman. Both individuals were allowed to plead guilty to a misdemeanor count of aiding and abetting a violation of 18 U.S.C. 209. The DMV employee was sentenced to two-years probation and a \$200 fine, and the middleman was sentenced to one-year probation and a \$250 fine. Two citizens who paid the two parties to get their records "cleaned up" were convicted of violating 18 U.S.C. 201 (bribery). 18 U.S.C. 209 bars the unlawful supplementation of salary and applies to Federal officers and employees as well as those of the District of Columbia and non-Government sources who compensate any such officers and employees for their Government services.

### **Private Citizen Attempts to Bribe Internal Revenue Service (IRS) Employee**

The citizen tried to bribe the IRS employee by paying him \$250 for favorable treatment regarding an IRS matter. The citizen pled guilty to a misdemeanor violation of 18 U.S.C. 209, which prohibits the payment of supplementation to a Government employee's salary.

### **Air Force Civilian Employee at Langley Air Force Base in Virginia Violates 18 U.S.C. 209**

The Air Force employee was designated by his Agency as the supervisory construction representative for the Simplified Acquisition of Base Engineering Requirements (SABER) contract. Under this contract, the private company agreed to provide base engineering and construction services at Langley Air Force Base. The prime contractor subcontracted its electrical work to another company. During this period, a supervisor with the subcontractor provided to the Air Force employee an HVAC system for a rental property owned by the employee, a jet ski and trailer, a home computer system, and a laptop computer, all valued at approximately \$16,500. The Air Force employee pled guilty to a misdemeanor violation of 18 U.S.C. 209, for receiving a supplementation to his salary as compensation for his services as a Government employee. He was sentenced to three-years probation and a \$2500 fine.

### **Central Intelligence Agency (CIA) Employee Drives Overseas Auto Scheme**

As an employee of the CIA residing in Egypt, the employee could purchase an imported vehicle in Egypt without having to pay a 150% excise tax. The employee participated in a scheme in which he received cash from Egyptian car brokers who paid United States employees to register luxury cars in their names in order to allow the dealers to evade import taxes. While in Cairo, Egypt, the employee agreed to accept \$25,000 in exchange for changing the status of his personally owned vehicle with the Egyptian Ministry of Foreign Affairs, which would allow him to participate in the scheme. The CIA employee was convicted of violating 18 U.S.C. 209 and was sentenced to six months' supervised release, six months' home detention, and 200 hours of community service

### **Family Business-Cafeteria Manager and Contracting Officer at Naval Surface Warfare Center Violates 18 U.S.C. 209 with Father-in-Law**

The employee and his father-in-law started a computer equipment business to increase their incomes. They concocted a scheme whereby the father-in-law bought computer equipment from a third party vendor through a computer supply magazine and the employee agreed to steer Government contracts to him to purchase the computer equipment. The two overcharged the Government for the equipment and split the overcharge. Through the Government contract, the father-in-law was paid \$29,000 for \$11,000 worth of computer equipment. Both parties shared the \$18,000 overcharge.

The father-in-law pled guilty to a misdemeanor violation of 18 U.S.C. 209, which prohibits the supplementation of a Government employee's salary, and the Government employee pled guilty to wire fraud and mail fraud. In their pre-indictment plea agreements, the father-in-law agreed to pay \$18,000 restitution and the employee agreed to pay an amount of restitution to be determined at the sentencing hearing.

### **Cab Company Owner and D.C. Official Conspire to Violate 18 U.S.C. 209**

For three years, the cab company owner conspired with the Chief of the D.C. Office of Taxicabs to provide illegal taxicab drivers' licenses to unqualified drivers. The drivers paid money to the company owner, who took the money and the drivers' names to the DC official. The DC official prepared the illegal licenses. The company owner also paid the DC official money for other illegal favors, such as registering vehicles that should not have been registered. The DC official pled guilty to supplementing the salary of a Government employee, in violation of 18 U.S.C. 209 and agreed to testify against the cab company owner. The DC official was convicted of nine felony counts, including accepting bribes and gratuities in violation of 18 U.S.C. 201.



### **Air Force Contracting Officer Pays Fine for 18 U.S.C. 209 Violation**

In return for favorable treatment in contracting, employees of a private company agreed to provide the contracting officer with money in the form of condominium rental payments. That money was paid through different intermediaries in order to disguise the purpose and the source of the funds. In addition, the investigation disclosed that the company purchased certain valuable goods and items for the condominium. Finally, the investigation disclosed that the company purchased smaller value items, such as dinners and basketball tickets, for the Air Force contracting officer. Due to statute of limitations problems, the investigation focused on the payment of the smaller value items. The contracting officer pled guilty to an information charging a single misdemeanor count under 18 U.S.C. 209, unlawfully augmenting his salary while employed by the Air Force. He was ordered to pay a fine of \$6,000, which the Court calculated to be three times the value of those accepted items.

### **Brothers Pay Guard for Special Access at Government Auction**

The defendants were brothers who paid a guard at a Government auction so that they would be given preferential treatment. Both defendants pled guilty to a misdemeanor information charging violations of 18 U.S.C. 209 (supplementation of a Government employee's salary). Sentence of probation and a fine of \$1,000 were imposed on each.

### **Assistant United States Attorney (AUSA) in Tucson Illegally Possesses Sheep Skull and Horns**

The Assistant U.S. Attorney (AUSA) prosecuted an individual for illegally killing a bighorn sheep on an Indian Reservation. As a result of the prosecution, the hunter forfeited the bighorn sheep and trophy (skull and horns), valued at approximately \$5,000, to the Arizona Game and Fish Department. Pursuant to a request from the AUSA, the Arizona Game and Fish Department entered into an agreement with the AUSA allowing him to publicly display the skull and horns in his office, but requiring its return upon request. This agreement with the Arizona Game and Fish Department was not brought to the attention of anyone else in the U.S. Attorney's office. Rather than displaying the skull and horns in his office, the AUSA obtained possession of the skull and horns after leaving employment with the U.S. Attorney's office and treated them as his personal property. When the former AUSA was questioned a year later about his possession of the skull and horns, he claimed that an unspecified Indian had sent the skull and horns to him in appreciation for his work on the prosecution of the hunter. Investigation showed that such a gift would have been contrary to tribal practices and no member of the tribe could be found who knew anything about the alleged gift. The Government then regained possession of the skull and horns from the former AUSA and returned them to the tribe. The former AUSA thereafter agreed to plead guilty to violating 18 U.S.C. 209 regarding his obtaining possession of the skull and horns.

### **Secretary at Federal Prison Pleads Guilty to 18 U.S.C. 209 Violation**

The secretary at a Federal prison accepted money from an inmate in exchange for performing services for him, including allowing him to place unauthorized calls on her office phone. The Defendant pled guilty to the charge of receiving compensation from a non-Government source for doing her Government job (18 U.S.C. 209(a)) and was sentenced to two years probation.

### **Postal Service Employee Convicted of 18 U.S.C. 209 Violation**

The employee was an assistance counselor responsible for providing assessment, referral, and follow-up counseling services to Postal employees and/or their family members having a chemical dependency and/or behavioral problems. While performing these duties, the counselor received, in addition to at least \$37,000 per annum as his lawful salary from the Postal Service, cash, a telephone credit card, limousine services, food, hotel accommodations, and travel reimbursement for himself, his wife and his brother from a Topeka, Kansas hospital. These benefits had an aggregate value of in excess of \$45,000. The hospital is a psychiatric care and drug-alcohol dependency treatment facility. The counselor was charged with fifteen counts of violating 18 U.S.C. 209, for accepting dual compensation. He pled guilty to a violation of 18 U.S.C. 209.

### **GSA Employee Convicted of Violating 18 U.S.C. 209 as Well as Conspiracy Charge**

As the Comptroller of the General Services Administration, the employee in question was responsible for implementing and overseeing GSA's contract with Diners Club for Government charge cards. During the contract, the employee accepted numerous expensive meals from Diners Club employees in Washington, D.C., as well as accommodations, meals, and entertainment in Las Vegas and Phoenix. The employee pleaded guilty to one count of conspiracy (18 U.S.C. 371) and one count of receiving dual compensation (18 U.S.C. 209), both misdemeanors. He was sentenced to one year of supervised probation and a \$250 fine.

### **Citizen Pleads Guilty to Violating 18 U.S.C. 209**

A private electrical contractor was charged with making contributions to and supplementing the salary of a public affairs officer and the representative for small and disadvantaged businesses for the Army Corps of Engineers in violation of 18 U.S.C. 209. The contractor was involved in the payment of money to the public affairs officer in return for his assistance in facilitating the sale and development of land for off-post housing around Fort Drum, New York. The defendant pled guilty to violating 18 U.S.C. 209, which prohibits Federal employees for accepting compensation for performing their duties from any source other than the Government, and was sentenced to supervised probation for one year; the defendant was not required to pay a fine due to his inability to pay.

## Time and Attendance Violations

### Lying About Overtime Doesn't Pay!

**The Facts:** A former employee of the Department of Defense entered overtime hours he hadn't worked into a computer time-keeping system. He was caught. He pleaded guilty and was ordered pay the Government \$7,500 and was sentenced to three years probation—not the sort of overtime he was looking for. (Source: *Federal Ethics Report*, Apr. 2003.)

**The Law:** 18 U.S.C. § 287 (2003) states that anyone presenting to any “person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof” a claim for money from the Federal Government, knowing such claim to be false, shall be fined and imprisoned for no more than 5 years.

### Hung By Wire Fraud

**The Facts:** A Defense Intelligence Agency secretary in Arlington, Virginia, improperly obtained access to her time and attendance records on 74 occasions. She used her access to credit herself with over 4,000 hours of overtime she hadn't worked. She was caught and pleaded guilty to wire fraud, for which she was sentenced to twelve months and one day in prison, to be followed by three years of probation with participation in Gamblers Anonymous. She also had to pay the Government \$91,380 in restitution. Hopefully, she learned from this bad bet. (Source: *Federal Ethics Report*, Apr. 2003.)

**The Law:** 18 U.S.C. § 1343 (2003) mandates penalties for transmitting “by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds” in order to execute a plan to defraud. The 75 penalties: Fines, imprisonment of not more than 20 years, or both—unless it affects a financial institution, in which case the fine is to be of not more than \$1 million and the imprisonment of not more than 30 years.

### Falsifying Overtime Can Be a Costly Business

**The Facts:** A Federal employee at the Pentagon decided to participate in a scheme that involved logging false overtime hours in an electronic timekeeping system. The employee pled guilty at trial and was sentenced to 3 years of probation along with 6 months of home confinement, and ordered to pay over \$16,000 restitution. (Source: *Federal Ethics Report*, March 2003.)

**The Law:** 18 U.S.C. § 287 (2003) mandates fines and imprisonment for up to 5 years for anyone who presents a claim for money, which the person knows to be fraudulent, to the “civil, military, or naval service of the United States.”

### **Improper Time Sheets**

Allegations were made that a Department of Defense (DoD) employee was not working his assigned hours and was fraudulently claiming overtime hours he did not work. After an investigation it was determined that the employee was attending college courses at lunch for approximately two hours and worked late to make up the time. His time and attendance sheets showed him working his normal tour with no indication of the long lunch and late hours to accommodate his college courses. The sheets were submitted without showing the modified schedule because a clerk incorrectly told the employee's supervisor that "the system wouldn't allow variations from a normal workday." The employee, the supervisor, and the clerk were all instructed on proper timekeeping procedures.

### **Navy Investigation of Misuse of Comp Time and Leave Rules**

Two top executives at a Navy facility in Rhode Island have been suspended amid an investigation into employee misuse of compensatory time and leave rules at a 50,000-worker Navy command. The technical director of the Naval Sea Systems Command's Undersea Warfare Center in Newport, R.I., and the executive director of the facility have been placed on administrative leave as a result of the investigation. The action took place after a Navy inspector general report found that employees at the center used religious comp time—which Federal workers are allowed to use to observe their religions—for non-religious purposes. The report also found that leave time had been improperly restored to some employees under provisions in the 1990 Base Realignment and Closure Act. The report recommended that officials investigate the use of religious comp time and restored leave at all Naval Sea Systems Command units. Citing the Privacy Act, Naval Sea Systems Command spokeswoman said she could not discuss any actions that may have been taken against the two officials. New acting directors have been assigned to both positions. Under religious comp time rules, Federal employees can work overtime hours so they can take time off for religious observations during regular work hours. Under the 1990 Base Realignment and Closure Act, some employees affected by base closure actions can carry over an unlimited amount of annual leave from one year to the next. Normally, the employees could lose some leave hours that they didn't use under the Government's "use-or-lose" leave rules.

### **INS Grants Administrative Leave as Award for Contributions to CFC**

Officials in an Immigration and Naturalization Service (INS) district office rewarded employees who contributed at least \$500 to the Combined Federal Campaign (CFC) with 8 hours of administrative leave. After an investigation it was found that the employees who were granted and used the leave did not have the leave properly documented on their time sheets. As the district director did not carry out the violations in a knowing and willful way and because the employees affected stated they did not feel coerced, no charges were filed. The director did receive a letter of counseling regarding her management of the CFC program, however.

## **VA Physician Time and Attendance Issue**

An administrative investigation substantiated that a part-time Department of Veterans Affairs (VA) physician routinely worked at a non-VA clinic during his VA core hours and as a result failed to meet his VA tour of duty obligation. The investigation also revealed that the physician's supervisor failed to check on him to ensure that he was working the hours required. In response to the investigator's recommendation, administrative action was taken against both the physician and the supervisor, the physician was charged leave for the hours not worked and was instructed to revise his hours at the non-VA clinic.

## **Travel Violations**

### **Military Officer Dances While the Public Pays**

**The Facts:** According to a Naval Inspector General inquiry, a senior Naval officer planned to attend two balls taking place within roughly an hour's drive of his station. For these, he obtained official orders and, according to his travel claims, received payment for hotel lodging, meals, and incidental expenses (per diem)—amounting all told to around \$500. This conduct occurred as one of a series of offenses that resulted in the officer being relieved of command, issued a punitive letter of reprimand, and ordered to forfeit \$1,000.

**The Law:** The Department of Defense (DoD) Travel Regulations provides various guidelines for travel of uniformed (in volume 1) and civilian (in volume 2) DoD employees. Applicable to this case was volume 1: "Joint Federal Travel Regulations" (JFTR). JFTR section U2010 requires a uniformed service member to use the same care in incurring expenses when the Federal Government is to pay "as would a prudent person traveling at personal expense . . . . Excess costs, circuitous routes, delays or luxury accommodations that are unnecessary or unjustified are the member's financial responsibility." Moreover, JFTR section U4102 forbids a uniformed service member from obtaining per diem for any temporary duty (TDY) performed within 12 hours. Since attendance at each ball along with round-trip travel could have been completed within 12 hours had the officer exercised prudence, this regulation made it even clearer that the officer should not have obtained his per diem. Since other agencies have travel regulations, all Federal employees are encouraged to verify the propriety of having the Government pay for their travel expenses.

### **Bumped Well**

It was the young employee's first official trip to Washington, DC. It was just a one-day, round trip. Her meeting was scheduled for 1:00 PM. Anxious to make a good impression (and to look around DC), she booked an early-morning flight out of Atlanta. When she got to the airport she discovered that the flight was overbooked, and the airline was offering free, round-trip tickets to anyone who would volunteer to take the next flight. That flight was to arrive in DC at 12:20 PM, and she figured that she would still have time to make her meeting. As her plane reached Richmond, the pilot announced that would be a slight delay while Air Force One took off. Her plane circled and circled. The delay lasted for over an hour, and by the time the plane finally landed, she had missed the meeting.

### **FBI Undercover Parties**

According to an FBI report, upon the retirement of a senior FBI official, FBI personnel from around the country journeyed to Washington to attend the official's retirement party. Many out-of-town G-men traveled on official orders and public expense. According to their travel orders, the purpose of the trip was to attend an ethics conference! According to the news report, only five people attended the ethics forum.

### **FBI False Travel Claim**

A former supervisory special agent of the FBI was sentenced in US District Court for falsely claiming travel expenses to which he was not entitled. The former agent pled guilty to one count of theft of Government property. The former agent ended a period of travel five days earlier than his schedule (and later travel claim) stated. He was ordered to pay \$1,887 in restitution.

### **Official Travel to Conference Turns Into Florida Vacation**

A Department of Defense (DoD) official was to travel to and attend a conference in Florida while on DoD travel orders. His wife accompanied him. It was alleged that after checking in at the hotel where the conference was to be held and then renting a convertible, the official promptly left for a short vacation with his wife for all three days of the conference. After an investigation it was determined that the official did not attend the conference, told a subordinate to "cover for him," and filed a fraudulent travel claim with DoD for the three days of the conference he did not attend. A proposal was made to have the official separated from Federal service.

### **False Travel Claim Filed I**

Allegations were made against a Navy enlisted man regarding filing a false travel claim. After an investigation it was determined that the individual had claimed his two children accompanied him during his PCS move across the country when in fact the children were in the custody of his ex-wife. He was reduced in rank one grade and ordered to forfeit \$2140.00 in pay.

### **False Travel Claim Filed II**

It was determined after an investigation that a Department of Defense (DoD) official filed a false claim for travel expenses. The official claimed he was staying at a hotel, and as a result, was paid the appropriate per diem rate by the Navy. It was determined during the course of the investigation that the official had been onboard a Navy ship (a situation where a much reduced per diem is paid) during the time he claimed he was staying at the hotel. The official reimbursed the Navy, was issued a letter of caution, and was counseled by his supervisor.

### **False Travel Claim Filed III**

A former Department of Defense (DoD) employee was sentenced in US District Court for making false relocation claims to the Government. The former employee made over \$15,000 in false relocation claims in connection with a permanent change of station (PCS) move. The judge sentenced the former employee to two years probation and ordered her to pay the \$15,000+ figure in restitution.

**False Travel Claim Filed IV**

An Army employee was sentenced in US District Court for falsifying lodging expenses. She pled guilty to one count of theft of Government property. The employee traveled to a nearby facility and incurred no lodging expenses. However, she filed a claim for \$105 when she returned back to her duty station. The employee was sentenced to one year of probation and was ordered to pay a \$3,000 fine. Ironically the employee was the director of the Honesty, Ethics, Accountability, Respect, Trust, and Support (HEARTS) Program for her duty station at the time she committed the violation.

**False Travel Claim Filed V**

A former Department of Defense (DoD) employee was sentenced in US District Court for submitting false travel claims in relation to a permanent change of station (PCS) move. The former employee was charged with claiming over \$22,000 in false travel expenses. She was also charged with altering documents to substantiate the expenses. The judge sentenced her to five years probation and ordered her to pay \$10,456 in restitution.

## NOTES

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